



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**  
**DATED : 18.09.2019**  
**CORAM**

**THE HONOURABLE MS.JUSTICE P.T. ASHA**  
**TR.C.M.P.(MD)No.242 of 2017**  
**and C.M.P(MD)No.5779 of 2017**

Kalaiselvi

... Petitioner/Respondent

**Vs.**

Kavikumar

... Respondent/ Petitioner

**PRAYER:-** Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw H.M.O.PNo.45 of 2017 on the file of the Sub-Court, Tambaram and transfer the same to the file of Family Court, Tirunelveli.

For Petitioner : Mr.H.Arumugam  
For Respondent : No appearance

**J U D G M E N T**

The above Transfer Civil Miscellaneous Petition is filed to transfer H.M.O.P.No.45 of 2017 on the file of the Sub-Court, Tambaram to the file of Family Court, Tirunelveli.

2.Heard the learned counsel for the petitioner and perused the papers. The respondent, though served, has not entered appearance and notice has also been served on the counsel who appeared for him before the court below.

3. The facts in brief, which are necessary for disposing of this petition, are as follows:

The marriage between the petitioner and the respondent was solemnized on 02.07.2014 at Pallavaram and they had lastly resided together at Pallavaram. Out of the wedlock, a male child, by name, Kameshwaran, was born to them on 10.04.2015. The petitioner would submit that on 21.10.2016, the respondent had left her at the parental home and stated that he would come back after he had completed certain construction works in his house. The respondent believed the above statement and stayed at her parental home. While so, she was shocked to receive a legal notice demanding re-union. The respondent had also filed H.M.O.P.No.45 of 2017 on the file of the Subordinate Court, Tambaram, for dissolving the marriage.

4. The petitioner thereafter has filed H.M.O.P.No.12 of 2017 before the Additional Sub Court, Tirunelveli for restitution of conjugal rights. Since the respondent has not maintained the petitioner, she has filed M.C.NO.1 of 2019 before the Chief Judicial



Magistrate, Tirunelveli. The husband is attending hearing before the Chief Judicial Magistrate Court, at Tirunelveli.

5. The petitioner would submit that having a small child and being entirely dependant on her parents financially and physically, she would not be able to travel all the way to Thambaram to attend the hearing in H.M.O.P.No.45 of 2017.

6. Considering the fact that the respondent had already appeared before the Chief Judicial Magistrate Court, Tirunelveli, no prejudice would be caused to him if the matter is transferred from the Sub Court, Thambaram to the file of the Additional Sub Court, Tirunelveli.

7. Heard the learned counsel for the petitioner and perused the papers.

8. As pointed out by the learned counsel for the petitioner, the respondent is attending the hearing before the Chief Judicial Magistrate, Tirunelveli in M.C.No.1 of 2017 and further he has not been maintaining the wife and minor child and the petitioner/wife is totally depending on her parents.

9. In these circumstances and also taking note of the fact that the petitioner is residing at Tirunelveli, the Additional Sub Court, Tirunelveli, is also having jurisdiction to consider H.M.O.P for divorce, this Court is inclined to issue the following direction :-

i) The learned Subordinate Judge, Thambaram, is directed to transmit the entire records in HMOP.No.45 of 2017 to the file of the Additional Sub Court, Tirunelveli within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Additional Subordinate Judge, Tirunelveli, after obtaining the records on transfer, is directed to try H.M.O.P.No. 45 of 2017 along with H.M.O.P.No.12 of 2017 and dispose of the same as expeditiously as possible in accordance with law.

10. In the result, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //



To

- 1.The Sub Judge, Tambaram.
- 2.The Additional Sub-Judge, Tirunelveli.

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+1 CC to Mr.H.ARUMUGAM, Advocate ( SR-87649[F] dated 19/09/2019 )

**TR.C.M.P. (MD) No.242 of 2017**  
**and C.M.P (MD) No.5779 of 2017**  
**18.09.2019**

**cm**

MK (30.09.2019) 3P 4C