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Tr.C.M.P.No.185 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 13.09.2023

C O R A M

**THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN**

TR C.M.P. No.185 of 2023  
and  
C.M.P.No.4149 of 2023

Sindhuja

... Petitioner

Vs.

K.Santhosh

... Respondent

**PRAYER:** This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908 to withdraw the H.M.O.P.No.459 of 2022 on the file of the Subordinate Court at Alandur, Chennai transfer to the Family Court at Namakkal to try along with F.C.O.P.No.109 of 2022 and M.C.No.50 of 2022 and pass orders.

For Petitioner : Mrs.S. Suseela Devi

For Respondent : Mr.K. Santhosh



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### **ORDER**

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the H.M.O.P.No.459 of 2022 on the file of the Subordinate Court at Alandur, Chennai and transfer the same to the Family Court at Namakkal to try along with F.C.O.P.No.109 of 2022 and M.C.No.50 of 2022.

2.The case of the petitioner is that she got married with the respondent on 01.11.2019 at Subbhulakshmi Mahal. Thereafter, the respondent demanded dowry from the petitioner and drove her from the matrimonial home, due to which the petitioner filed F.C.O.P.No.109 of 2022 seeking divorce on the file of Family Court at Namakkal and when the same was pending she filed maintenance petition in M.C.No.50 of 2022 and both the petitions are pending. Whiles, the Respondent herein filed H.M.O.P.No.459 of 2022 seeking restitution of conjugal rights on the file of Subordinate Judge, Alandur, Chennai. Hence the petitioner had filed this petition to transfer the H.M.O.P.No.459 of 2022 filed by the Respondent/Husband on the file of the Subordinate Court at Alandur to the Family Court at Namakkal and try along with F.C.O.P.No.109 of 2022 and M.C.No.50 of 2022.



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3.The learned counsel for the petitioner submitted that now the petitioner is residing along with parents in Namakkal Being a lady, the petitioner could not able to attend the Court proceedings at Chennai, which is 400 kilo meters away from Namakkal. Because of this, she is facing physical as well as financial issues. Hence, she seeks to transfer the H.M.O.P.No.459 of 2022 filed by the Respondent/Husband on the file of the Subordinate Court at Alandur to the Family Court at Namakkal and try along with F.C.O.P.No.109 of 2022 and M.C.No.50 of 2022. If the case is transferred, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by the husband.

4.Heard the learned counsel for the petitioner as well as the respondent. Perused the materials available on record. It is well settled law that whenever, the transfer application is filed in matrimonial dispute, the convenience of the wife shall be given preference.

5.In view of the above submission made by the learned counsel appearing for the petitioner and considering the facts and circumstances of the case and taking note of the fact that she is not able to travel from Namakkal to Chennai to attend the Court proceedings, this Court is inclined



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to withdraw and transfer H.M.O.P.No.459 of 2022 filed by the Respondent/Husband on the file of the Subordinate Court at Alandur to the Family Court at Namakkal and try along with F.C.O.P.No.109 of 2022 and M.C.No.50 of 2022 filed by the petitioner.

6. In the result, the Transfer Civil Miscellaneous Petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

**13.09.2023**

Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

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To

- 1.The Subordinate Court at Alandur, Chennai
2. The Family Court at Namakkal



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**V.BHAVANI SUBBAROYAN., J.**

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