



**Tr CMP (MD) No. 150 of 2023**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 20.03.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**Tr.C.M.P.(MD) No.150 of 2023**

**and**

**CMP(MD)No.3376 of 2023**

S.Subalakshmi

... Petitioner/Respondent/Wife

**-VS-**

Pethathannasamy @ M.Suresh Kumar

... Respondent/Petitioner/Husband

**PRAYER:** Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the above HMOP.No.183 of 2022 on the file of the Family Court, Theni, which was filed seeking for divorce to be tried along with the above HMOP.No.125 of 2018 on the file of the Principal Sub Court, Thoothukudi, which was filed by the petitioner herein seeking for restitution of conjugal rights.

For Petitioner : Mr.K.P.Ramesh



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## **ORDER**

This petition has been filed to transfer HMOP.No.183 of 2022 on the file of the Family Court, Theni, which was filed by the respondent seeking for divorce to be tried along with HMOP.No.125 of 2018 on the file of the Principal Sub Court, Thoothukudi.

2.The petitioner herein has filed HMOP.No.125 of 2018 before the Principal Sub Court, Thoothukudi. The said petition has been filed by the petitioner under Section 9 of the Hindu Marriage Act, 1955. On the other hand, the respondent has filed HMOP.No.79 of 2018 under Section 13(1)(i-a) & (i-b) of the Hindu Marriage Act, 1955, before the Sub Court, Theni, and later, it was transferred to the Family Court, Theni, and renumbered as HMOP.No.183 of 2022.

3.The specific case of the petitioner is that while the petitioner continues to appear before the Principal Sub Court, Thoothukudi in HMOP.No.183 of 2022, the respondent, who is the petitioner therein does not appear. The further case of the petitioner is that the respondent seeks divorce on the ground of cruelty in



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HMOP.No.183 of 2022. The petitioner has filed HMOP.No.125 of 2018 for restitution of conjugal rights. The respondent has not participated and that the Family Court is likely to pass orders. Considering the fact that the orders may be in conflict each other in the two proceedings pending before the lower Court, the learned counsel for the petitioner prays for interim stay of all further proceedings in HMOP.No.125 of 2018 pending on the file of the Principal Sub Court, Thoothukudi.

4. There is no merits in the prayer sought for by the learned counsel for the petitioner. If it is the case of the petitioner that the respondent is not appearing before the Family Court, Theni, in HMOP.No.183 of 2022, it is open for the petitioner to press for dismissal of HMOP.No.183 of 2022.

5. In view of the above, the present Civil Revision Petition is disposed of with the following observations:-

1) The Family Court, Theni, is directed to dispose HMOP.No.183 of 2022 preferably within a period of 6 months from the date of receipt of a copy of this order. In case, the respondent, who is the petitioner therein fails to appear, the



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Principal Sub Court, Thoothukudi, is directed to dispose HMOP.No.125 of 2018 as expeditiously as possible as regarding to the petitioner side arguments are over.

-No costs. Consequently, the connected miscellaneous petition is closed.

**20.03.2023**

NCC : Yes / No  
Internet : Yes / No  
Index : Yes / No

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To:

- 1.The Family Court,  
Theni.
- 2.The Principal Sub Court,  
Thoothukudi.



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**C.SARAVANAN, J.**

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Order made in  
**Tr.C.M.P.(MD) No.150 of 2023**  
**and**  
**CMP(MD)No.3376 of 2023**

Dated:

**20.03.2023**