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TR.C.M.P.Nos.20 & 25 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2024

CORAM:

**THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

**TR.C.M.P.Nos.20 & 25 of 2024**

**and**

**C.M.P.Nos.697 & 728 of 2024**

K.Suchitra

... Petitioner in both Tr.C.M.Ps

Vs.

S.Kaviyarasan

... Respondent in both Tr.C.M.Ps

**COMMON PRAYER:** Transfer Civil Miscellaneous Petitions have been filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer the cases in F.C.O.P.No.111 of 2021, on the file of the Family Court, Chengalpet to the Family Court, Chennai, and G.W.O.P.No.152 of 2022, on the file of the District Court, Chengalpet to the Family Court, Chennai.

**In both Tr.C.M.Ps.**

For Petitioner : Mr.M.Mahamani

For Respondent : Mr.S.Vinoth Kumar

**COMMON ORDER**

The first transfer seeks for F.C.O.P.No.111 of 2021, on the file of the Family Court, Chengalpet, to the file of the Family Court, Chennai. The



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second petition seeks for transfer of G.W.O.P.No.152 of 2022, from the file of the Principal District Court, Chengalpet to the Family Court, Chennai.

2.The petitioner is the wife of the respondent. She married the respondent on 12.03.2012 at Madhurandagam. The wedlock produced two children, a boy child on 07.06.2014 and a girl child on 25.10.2016. Due to disputes and differences, the parties have separated. Subsequently, the husband filed F.C.O.P.No.111 of 2021, seeking for divorce on the grounds of cruelty under Section 13 (1) (i-a) of the Hindu Marriage Act. This was filed before the Family Court, at Chengalpet. A year thereafter, he has presented G.W.O.P.No.152 of 2022, on the file of the Principal District Judge, Chengalpet.

3.The wife pleading that she is a resident of Chennai and unable to travel from Chennai to Chengalpet for the purpose of contesting the litigations has moved the present transfer petitions. She has also initiated



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M.C.No.240 of 2024, on the file of the III Additional Family Court at Chennai. Notice was ordered in the transfer petitions. The respondent has been served and had entered appearance through a counsel.

4.Heard Mr.M.Mahamani for the petitioner and Mr.S.Vinoth Kumar for the respondent.

5.It is not in dispute that the girl child is with the mother and the boy is with the father. It is not in dispute that pending litigation in F.C.O.P.No.111 of 2021, the learned Family Court Judge, Chengalpet, has granted visitation rights for the mother to visit her son on every Sunday between 10 a.m. to 12 noon. This order was passed in F.C.I.A.No.5 of 2022, on 08.09.2022. Before Tr.CMP.Nos.20 & 25 of 2024 could be filed, F.C.O.P.No.111 of 2021 itself came to be dismissed for default on 09.08.2023 and Mr.S.Vinoth Kumar informs me that an application for



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restoration was filed in I.A.No.12 of 2023 and the same is pending for consideration. Therefore, he pleads that since F.C.O.P.No.111 of 2021 had been dismissed for default, Tr.CMP.Nos.20 & 25 of 2024 has become infructuous.

6.Mr.M.Mahamani pleads that the petitioner/wife is unable to maintain herself and she is residing along with her brother and widowed mother. He states that as long as her father was alive, she was able to manage the litigation with the assistance that was given by her father. He adds that the petitioner's father passed away in 2022 and now, she is entirely dependent on her brother to contest the litigation. Therefore, he pleads that the proceedings may be transferred to Chennai.

7.I have heard both sides and considered the submissions.



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8.In the matters of transfer, the Court has to take into consideration the convenience of the wife. Here is the case where the wife is not able to manage herself as well as the girl child, who is with her. The parties have been complying with the order passed in F.C.I.A.No.5 of 2022. Be that as it may, Mr.S.Vinoth Kumar sought for visitation rights to the respondent/husband to see the daughter. I feel that the request is reasonable. Infact under Section 24(2) Cr.P.C., while ordering transfer, the Court has also powers to give “special directions” as the facts and circumstances of the case may require.

9.In the light of the above discussions, I pass the following orders:

(i) I.A.No.12 of 2023 in F.C.O.P.No.111 of 2021 now pending on the file of the Family Court, Chengalpet is transferred to the III Additional Family Court, Chennai. Similarly, G.W.O.P.No.152 of 2022, on the file of the Principal District Court, Chengalpet is transferred to the fie of the III



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Additional Family Court, Chennai. The III Additional Family Court,  
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Chennai, shall club G.W.O.P.No.152 of 2022 along with M.C.No.240 of 2024 with I.A.No.12 of 2023 in F.C.O.P.No.111 of 2021.

(ii) In case I.A.No.12 of 2023 is allowed and F.C.O.P.No.111 of 2021 is restored, the same shall be tried along with the other two proceedings.

(iii) The father has agreed to pay a sum of Rs.10,000/- as maintenance to the wife and child, pending further orders that may be passed in M.C.No.240 of 2024. This is only an interim arrangement to enable the mother and child to survive the litigation. When the Family Court fixes an amount higher than the amount fixed in this order, the amount paid by the husband pursuant to this order shall be accounted for.

(iv) If the maintenance is paid without any default, the father will be entitled to have rights of visitation on every Sunday. To make it clear, when the mother exercises her right of visitation to meet her son, she will take her daughter along with her.



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10. With the above directions, these petitions are allowed.

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Consequently, connected miscellaneous petitions are closed. No costs.

**04.11.2024**

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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To

1. The Principal District Court,  
Chengalpet.

2. III Additional Family Court,  
Chennai.

3. The Family Court,  
Chengalpet.



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**V.LAKSHMINARAYANAN,J.**

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