



TR. CMP. (MD) No. 94 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**TR. CMP. (MD) No. 94 of 2024
and
C.M.P. (MD) No. 1778 of 2024**

Thenmozhi

... Petitioner / Respondent

-VS-

Prabhu

... Respondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw the proceedings in H.M.O.P. No. 135 of 2023 on the file of the Sub-Court, Melur, Madurai District and transfer the same to the Family Court, Theni.

For Petitioner : Mr. P.Mani Anandh

ORDER

This application for transfer of the case invoking Section 24 of the Code of Civil Procedure Code, 1908, has been filed relating to a matrimonial dispute between the parties. The Husband, viz., Prabhu has filed H.M.O.P. No. 135 of 2023 in the Sub-Court, Melur, Madurai District, seeking for Divorce against his



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Wife, viz., Thenmozhi, which is sought to be transferred by the Wife to the Family Court, Theni.

2. Heard Mr. P.Mani Anandh, Learned Counsel for the Wife and perused the materials placed on record, apart from the pleadings of the parties. Though notice has been served to the Husband, he has not appeared before this Court.

3. It is the case of the Wife that she would have to travel a distance of more than 75 kms from Theni to the Sub-Court, Melur, Madurai District to effectively defend the case filed against her by the Husband. That apart, she also expresses difficulties to take care of the five years old son, which relevant factors remain uncontroverted. It has also been brought to notice that the Wife had earlier filed H.M.O.P. No. 303 of 2023 in the Family Court, Theni, seeking for Restitution of Conjugal Rights on 10.07.2023, in which, the Husband did not appear and an *ex parte* final order was passed. It was only thereafter that the Husband has filed H.M.O.P. No. 135 of 2023 in the Sub-Court, Melur, Madurai District on 20.10.2023, which is now sought to be transferred. In such circumstances, taking into account the rationale behind Section 21-A(2)(b) of the Hindu Marriage Act, 1955, this Court is of the considered view that balance of convenience is in favour of conducting the proceedings at the Court within



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whose territorial limits of jurisdiction the residence of the Wife is located.

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4. In view of the foregoing discussion, the case in H.M.O.P. No. 135 of 2023 on the file of the Sub-Court, Melur, Madurai District, is transferred to the Family Court, Theni and both parties shall appear before that Court on the next date of hearing, which is fixed as 05.06.2024, for conduct of further proceedings from its present stage, and on the subsequent dates to which it is adjourned, from time to time till final order is passed.

In the result, the Transfer Civil Miscellaneous Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed.

No costs.

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Index : Yes/No

Internet : Yes/No

TSG

To

1. The Sub-Court, Melur, Madurai District.
2. The Family Court, Theni.



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P.D. AUDIKESAVALU, J.

TSG

3. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.
4. Thenmozhi,
D/o.Tamilarasan,
Shanmugasundarapuram Village,
Piratukaranpatti, Andipatti Post,
Theni District.
5. Prabhu,
S/o.Muniyandi,
Nulpattra Street,
Bharathipuram,
Karuppayurani Post,
Madurai District.

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