



Tr.C.M.P(MD).No.620 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.620 of 2024
and
C.M.P(MD)No.14918 of 2024

Vidhya : Petitioner

Vs.

T.Rajarajan : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Civil Procedure Code, to withdraw the petition in F.C.O.P.No.108 of 2024 on the file of the Family Court, Ariyalur and transfer the same to the Family Court, Kumbakonam.

For Petitioner : Mr.Chamundi Bose

For Respondent : Mr.U.Illanchezian

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw and transfer the petition in F.C.O.P.No.108 of 2024 on the file of the Family Court, Ariyalur and transfer the same to the Family Court, Kumbakonam.



Tr.C.M.P(MD).No.620 of 2024

2. It is evident from the records that the marriage between the parties was solemnized on 28.09.2012. It is not in dispute that the respondent has filed a petition in F.C.O.P.No.108 of 2024 seeking divorce and the same is pending on the file of the Family Court, Ariyalur. It is also not in dispute that the respondent has filed a petition in H.M.O.P.No.106 of 2019 seeking divorce and the same was ordered to be dismissed for non prosecution and that the petitioner has filed a petition in H.M.O.P.No.71 of 2021 seeking restitution of conjugal rights and the same was ordered as prayed for.

3. It is also not in dispute that the petitioner has filed a complaint invoking the provisions of Domestic Violence Act in D.V.C.No.1 of 2020 and the same was ordered.

4.The learned counsel for the petitioner would submit that the petitioner is residing at Papanasam, Thanjavur District and finds it very difficult to travel to Ariyalur to attend the hearings.

5.The learned counsel for the respondent would submit that the case may be transferred to the Family Court, Thanjavur.



Tr.C.M.P(MD).No.620 of 2024

6. In the case of **N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha** reported in **2022 Live Law (SC) 627**, the Hon'ble Supreme Court has reiterated the position with generally, it is the wife's convenience, which must be looked at while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”, the bench observed.”

7. Considering the earlier proceedings between the parties and also taking note of the fact that the petitioner is residing at Papanasam, Thanjavur District, this Court is inclined to transfer the case in F.C.O.P.No.108 of 2024, from the file of the Family Court, Ariyalur to the Family Court, Kumbakonam.



Tr.C.M.P(MD).No.620 of 2024

Accordingly, the learned Judge, Family Court, Ariyalur, is hereby directed to transmit the entire records in F.C.O.P.No.108 of 2024 to the file of the Family Court, Kumbakonam, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Judge, Family Court, Kumbakonam, is directed to take up the petition on file and proceed in accordance with law.

8. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.
No costs.

16.12.2024

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

To

- 1.The Judge Family Court,
Ariyalur.
- 2.The Judge, Family Court, Kumbakonam.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Tr.C.M.P(MD).No.620 of 2024

K.MURALI SHANKAR, J.

DAS

Order made in
Tr.C.M.P (MD).No.620 of 2024
and
C.M.P(MD)No.14918 of 2024

16.12.2024