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Tr.C.M.P(MD)No.772 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.08.2024

Pronounced on : 14.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**Tr.C.M.P(MD)No.772 of 2023**

**and**

**C.M.P(MD)No.17284 of 2023**

S.Muthukumar

... Petitioner

Vs.

Vallikanu

... Respondent

**PRAYER :** Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.196 of 2023 from the file of the Sub Court, Devakottai and transfer to the Sub Court, Chidhambaram.

For Petitioner : Mr.V.Angusamy

For Respondent : Mr.R.Sundar Srinivasan

### **ORDER**

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw H.M.O.P.No.196 of 2023 on the file of the Sub Court, Devakottai and transfer the same to the Sub Court, Chidambaram.



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2. The petitioner is the husband of the respondent and their marriage was solemnized on 27.06.2022 at Arulmigu Nithiya Kalyani Kovil, Sivagangai as per Hindu rites and customs. After six months, the respondent stated that she was not willing to live with him and went back to her parental house by deserting the matrimonial home. The respondent filed H.M.O.P.No.196 of 2023 before the Sub Court, Devakottai, seeking divorce. Hence, this petition is filed seeking for transfer.

3. The learned counsel for the petitioner has submitted that the petitioner was affected by medullary infarct-brain attack during 2006 and he had not married till 2022. At the time of marriage, the petitioner was aged 51 years and the respondent was aged 48 years. Both family members had compromise talk and they reached an agreement, dated 22.02.2023. Due to the petitioner's ill health condition, he could not travel long distances and filed a discharge summary. But the respondent is stable and healthy, so H.M.O.P.No.196 of 2023 filed by the respondent may be transferred from Devakottai to Chidambaram.

4. Per contra, the learned counsel for the respondent contended that both the parties arrived at settlement and agreed for divorce as per



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the agreement, dated 22.02.2023. On the appearance of the petitioner for one hearing the matter would reach an end. So, there is no need for transfer of the case.

5. In reply, the learned counsel for the petitioner submitted that the trial Court may be directed to dispose of the divorce petition on the same day on the appearance of the petitioner.

6. On hearing both sides and on perusal of records, it is clear that the petitioner and the respondent entered into an agreement, dated 22.02.2023 consenting for divorce. It is well settled proposition of law regarding transfer petitions, more specifically in the matters of matrimonial cases that it is the residence of the wife, which determines the question of jurisdiction in case of initiation of matrimonial cases. During the course of argument, the learned counsel for the petitioner submitted that the petition may be dismissed with direction to the Sub Court, Devakottai, to dispose of the petition on the same day and the respondent's side also gave consent. Considering the facts and circumstances of the case and also the submissions made by both parties, this Court is inclined to dismiss the petition with direction.



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7. In the result, this Transfer Civil Miscellaneous Petition is dismissed. If both parties filed any joint memo/petition, the learned Subordinate Judge, Devakottai, is directed to fix a date for appearance of both parties and hear both sides and dispose of the petition preferably on the same day by adopting procedure as per law. No costs. Consequently, the connected Miscellaneous Petition is closed.

**14.11.2024**

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

To

- 1.The Subordinate Court,  
Devakottai,
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J.**

VSD

**Pre - Delivery Order made in**  
**Tr.C.M.P(MD)No.772 of 2023**  
**and**  
**C.M.P(MD)No.17284 of 2023**

**14.11.2024**