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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.06.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

Tr.CMP.No.48 of 2024
in CMP.No.1123 of 2024

V.Amalorpavamary

... Petitioner

Vs.

1.Sagayapaulraj
2.Santhana Mary

... Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC, to withdraw GWOP.No.153 of 2023 from the file of the learned Principal District Judge at Villupuram and to transfer any to try along with GWOP.No.182 of 2023 on the file of the learned Principal District Judge, Tiruvannamalai.

For Petitioner : Mr.M.Vimal

For Respondents : Mr.S.Ambigapathi

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw GWOP.No.153 of 2023 from the file of the learned Principal District Judge



at Villupuram and to transfer and to try along with GWOP.No.182 of 2023
on the file of the learned Principal District Judge, Tiruvannamalai.

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2.The petitioner is the maternal grandmother of minor children, Sherin and Rincy. The petitioner's daughter and her son-in-law died in an accident, leaving behind two minor children. The case of the petitioner is that the elder child, Sherin is under the care and custody of the petitioner and the younger child, Rincy is under the care and custody of the respondents.

3.The learned counsel for the petitioner would submit that GWOP.No.182 of 2023, which was filed by the petitioner, is pending on the file of the Principal District Judge, Tiruvannamalai and that the petitioner is taking care of the elder child and the respondents are taking care of the younger child. The petitioner has filed the present transfer petition seeking transfer of GWOP.No.153 of 2023 from the file of the learned Principal District Judge at Villupuram to be withdrawn and transferred to the file of the learned Principal District Judge, Tiruvannalamai, where the petitioner's case in GWOP.No.182 of 2023 is pending. The petitioner has cited her



advanced age and other inconveniences for seeking transfer as
aforementioned.

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4.The learned counsel for the respondents would however vehemently contend that the elder child was also under the care and custody of the respondents alone and the petitioner has forcibly taken away the child and thereafter filed GWOP.No.182 of 2023. However, these are matters which are on the merits and cannot be a ground for the reason to decide the transfer petition.

5.Admittedly, two rival Guardian Original Petitions have been preferred, one before the learned Principal District Judge, Tiruvannamalai by the maternal grandmother and the other by the paternal uncle and grandfather before the learned Principal District Judge, Villupuram.

6.On going through the records, I find that the Guardian OP filed by the respondents before the Principal District Judge, Villupuram is earlier, having been filed on 26.07.2023 and the petitioner having filed the Guardian OP on 16.08.2023 alone.



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7. Be that as it may, it is the matters are pending only before the District Courts and for the sake of avoiding multiplicity of proceedings and also taking into account the convenience of the parties, it is just and necessary that both the Guardian OPs are tried by one of the Courts. Respecting hierarchy and filing, it is just and expedient to transfer GWOP.No.182 of 2023 to the file of the Principal District Court, Villupuram to be tried along with GWOP.153 of 2023. It is made clear that since the OPs are being tried by a learned District Judge, the physical presence of the petitioner/maternal grandmother shall not be insisted upon by the learned Principal District Judge and her presence shall be required/made necessary only during trial (chief and cross-examination), unless and otherwise the petitioner voluntarily chooses to appear on other hearing dates. Considering that the welfare of the minor children, who have lost both their parents is involved in both these Guardian OPs, the learned Principal District Judge shall endeavour to try both the GWOPs jointly and dispose of the same within a period of three months from the date of receipt of a copy of this order.



8. With these above observations and directions, this Transfer Civil

Miscellaneous Petition is allowed. There shall be no order as to costs.

Connected Civil Miscellaneous Petition is closed.

10.06.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To

1. The Principal District Judge, Villupuram.

2. The Principal District Judge, Tiruvannamalai.



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P.B. BALAJI,J.

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