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Tr.CMP.No.100 of 2025 and C.M.P.No.2053 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.100 of 2025

and

C.M.P.No.2053 of 2025

P.Pavithra

... Petitioner / Complainant

Versus

1. Ayyappan
2. Thenmozhi
3. Prabhakaran
4. Jothilakshmi

... Respondents / Respondents

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw and transfer the above said DVC.No.6 of 2024 pending on the file of the Hon'ble Additional Mahila Court, Villupuram, to the file of the Hon'ble Additional Mahila Court at Egmore.

For Petitioner : Ms. G.Kiruthika

For Respondents : Mr.V.Vargees Amalraja



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ORDER

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The learned counsel for the petitioner / wife submits that the first respondent / husband filed a divorce petition in H.M.O.P.No.108 of 2024 on the file of the Sub Court, Villupuram. Subsequently, it was transferred to the file of the IV Additional Family Court, Chennai, and renumbered as H.M.O.P.No.20/2025. The petitioner / wife is presently residing in her father's house in Chennai in a rented premises. Her father is already suffering from kidney failure and is working only as a daily wage labourer. The petitioner and her family are struggling to meet their basic needs such as food, clothing and shelter. The learned counsel further submits that the petitioner is finding it very difficult to meet the medical expenses and is unable to travel from Chennai to Villupuram, where the case in D.V.C.No.6 of 2024 is pending before the Additional Mahila Court, Villupuram. The petitioner is also taking care of her two year old girl child and is unable to afford the travel expenses to attend the hearing from Chennai to Villupuram.

2. Per contra, the learned counsel for the respondent would submit that



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if this petition is allowed, it would cause serious prejudice to the respondent.

The learned counsel further submits that the petitioner has furnished difference addresses in various proceeding. In the birth certificate of the child, the petitioner's address is mentioned as No.53, Sivan Koil Street, Thirumundeeswaram, Thiruvannainallur, Villupuram District, Tamil Nadu. In the maintenance case in M.C.No.54 of 2023, the petitioner has given the address as No.22 Thiru.Vi.Ka Street, Vyasarpadi, Chennai - 600 011, and in the Domestic Violence Case in D.V.C.No. 6 of 2024, the address given is No.107 E, B.B.Road, Perambur, Chennai - 600 011. In the police complaint, the address mentioned is again No.53, Sivan Koil Street, Thirumundeeswaram, Thiruvannainallur, Villupuram District, Tamil Nadu. Therefore, the petitioner has furnished different addresses on different occasions and has not approached this Court with clean hands. hence, the learned counsel prayed for dismissal of the petition.

3. Admittedly, the first respondent / husband filed a divorce petition, and the same is pending on the file of the IV Additional Family

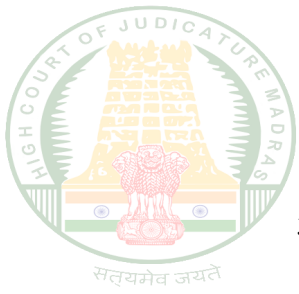


Court, Chennai. I have gone through the affidavit filed in support this petition and I find merit in the submissions made by the learned counsel on either side.

4. At this juncture, it may be apposite to cite the judgment of the Hon'ble Apex Court in ***N.C.V.Aishwarya vs. A.S.Saravana Karthik*** (***MANU/SC/1211/2022 : 2022 Live Law (SC) 627***) held at paras 9 and 10, which reads as under:-

"9. 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 socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer. (emphasis supplied)

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions".



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5. It is also relevant to refer the decision made by the Madurai Bench of Madras High Court in TR.CMP(MD)No.108 of 2010 dated 03.03.2011, wherein, it has observed as below:-

"18.It is true that section 19 of the Hindu Marriage Act, has been amended by insertion of proviso of (iii)(a) to section 19. Of Course, this amended section 19(iii)(a) gives special preference to the wife to file a petition or defending the case of the husband before the Court within whose jurisdiction she resides. The intention of the legislator is to safe-guard the interest and rights of the women, who are being subjected to harassment and cruelty. But this special preference conferred under section 19 (iii)(a) of the Hindu Marriage Act shall not be used to wreck vengeance on the husband. There must be a justifiable cause to select the jurisdiction of the Court where she resides."

6. Considering the proposition laid down in the judgment of the Hon'ble Supreme Court in ***N.C.V.Aishwarya*** case cited *supra* and also considering the observation made by this Court, wherein, it has been held that convenience of the wife has to be considered, while transferring the case from one Court to another, there can be no impediment for allowing this petition as prayed for.

7. Accordingly, this transfer civil miscellaneous petition is allowed. The case in DVC.No.6 of 2024 is hereby withdrawn from the file of the Additional Mahila Court, Villupuram and transferred to the file of the Additional Mahila Court, Egmore. Considering the facts there shall be no



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orders as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

1. The Additional Mahila Court, Villupuram
2. The Additional Mahila Court, Egmore.

M. JOTHIRAMAN, J.

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