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Tr.C.M.P.No.119 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.01.2025**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.119 of 2024  
& C.M.P.No.2581 of 2024

S.Shobana

.. Petitioner

Vs

M.Arun Kumar

.. Respondent

**Prayer:** Transfer Civil Miscellaneous Petition is filed under Section 24(b)(ii) of the C.P.C., to withdraw the case in H.M.O.P.No.61 of 2023 pending on the file of the learned Principal Subordinate Judge at Kallakurichi and transfer the same to the file of the learned Family Judge, Salem.

For Petitioner : Ms.M.Anisha  
for Ms.Elizabeth Ravi

For Respondent : Mr.M.Jothi Kumar



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## **ORDER**

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.61 of 2023 from the file of the learned Principal Subordinate Judge at Kallakurichi and transfer the same to the file of the learned Family Judge, Salem.

2. I heard both sides. I have gone through the affidavit.

3. The petitioner married the respondent on 15.09.2016. From the wedlock, they were blessed with a female child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.61 of 2023 for divorce before the learned Principal Subordinate Judge at Kallakurichi. The petitioner/wife initiated proceedings in H.M.O.P.No.16 of 2024 for restitution of conjugal rights before the learned Family Judge, Salem. Pleading that the wife is residing in Salem and unable to travel from Salem to Kallakurichi, she has moved this transfer petition.



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4. The Parliament, while amending the Hindu Marriage Act, has incorporated Section 19(iii), permitting a wife to initiate a proceeding in a place where she is residing. This is an indication to the Court that the convenience of the wife has to be given precedence by the Court. In line with this Parliamentary amendment, this Court and the Supreme Court have consistently held in matters of transfer, the convenience of the wife should be given a superior consideration than that of the husband. As the distance between Salem and Kallakurichi is considerable and since it will be difficult for the wife to leave the child behind and travel to attend the Court, I am inclined to accept the transfer.

5. Accordingly, H.M.O.P.No.61 of 2023 is withdrawn from the file of the learned Principal Subordinate Judge at Kallakurichi and transferred to the file of the learned Family Judge, Salem. The learned Family Judge, Salem, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.16 of 2024, which is said to be pending on his file.

6. The Family Court need not insist upon the appearance of the



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husband on all hearing dates. For non-essential and procedural hearings, the husband will be represented by a counsel. He shall however present himself before the Court when the Trial Court passes a specific order for his appearance or when his presence is indispensable.

7. With the above observations, the Transfer Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

**24.01.2025**

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Principal Subordinate Judge at Kallakurichi.

2. The Family Judge, Salem.



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**V. LAKSHMINARAYANAN,J.**

Kj

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