



Tr.C.M.P.No.135 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.135 of 2024
& C.M.P.No.2772 of 2024

Vijayalakshmi

.. Petitioner

Vs

Bala Subramanian

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case in H.M.O.P.No.265 of 2023 pending on the file of the learned Subordinate Judge at Devakottai and transfer the same to the file of the learned Family Judge, Chennai.

For Petitioner : Mr.S.Mareeswaran

For Respondent : Mr.S.Sankar Ganesh

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.265 of 2023 from the file of the learned



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Subordinate Judge at Devakottai and transfer the same to the file of the learned Family Judge in Chennai.

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

3. The petitioner married the respondent on 07.09.2005. From the wedlock, they were blessed with two children. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.265 of 2023 for divorce before the learned Subordinate Judge at Devakottai. Pleading that the wife is residing in Chennai and unable to travel from Chennai to Devakottai, she has moved this transfer petition.

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 Chennai and Devakottai is considerable and since it



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will be difficult for the wife to leave the children behind and travel to attend the Court, I am inclined to accept the transfer.

5. Accordingly, H.M.O.P.No.265 of 2023 is withdrawn from the file of the learned Subordinate Judge at Devakottai and transferred to the file of the learned Family Judge at Chennai.

6. The Family Court need not insist upon the appearance of the 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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V. LAKSHMINARAYANAN,J.

Kj

To

- 1.The Subordinate Judge at Devakottai.
- 2.The Family Judge at Chennai

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