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Tr.C.M.P.No.162 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.162 of 2024

S. Harshana

.. Petitioner

Vs

M. Hari Prabhakaran

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case F.C.H.M.O.P.No.6 of 2024 on the file of the Hon'ble Family Court, Dharmapuri District and to transfer the same and to try along with the HMOP No.10 of 2024 on the file of the Subordinate Court, Mettur, Salem District.

For Petitioner : Mr.R. Vinu Raja

For Respondent : Mr.Vishnu Manoharan

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of F.C.H.M.O.P.No.6 of 2024 from the file of the Family Court, Dharmapuri District and transfer the same to the file of



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

3. The petitioner married the respondent on 10.09.2021. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in F.C.H.M.O.P.No.6 of 2024 for divorce before the learned Judge, Family Court at Dharmapuri. The petitioner/wife initiated proceedings in H.M.O.P.No.10 of 2024 for restitution of conjugal rights before the learned Subordinate Judge at Mettur, Salem District. Pleading that the wife is residing in Nangavalli Town, Mettur Taluk, Salem District and unable to travel from Mettur to Dharmapuri, 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



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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 Mettur and Dharmapuri 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 Accordingly, F.C.H.M.O.P.No.6 of 2024 is withdrawn from the file of the Family Court at Dharmapuri and transferred to the file of the Subordinate Court at Mettur. The learned Subordinate Judge at Mettur, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.10 of 2024, which is said to be pending on his file.

6. With the above observations, the Transfer Petition is ordered.

No costs.

24.01.2025

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

mrp



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V. LAKSHMINARAYANAN,J.

mrp

To

1.The Judge, Family Court,Dharmapuri.

2.The Subordinate Judge, Mettur, Salem District.

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