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Transfer Civil Misc. *Petition No.168 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

TR C.M.P.No.168 of 2025
and C.M.P.No.3379 of 2025

T.R.Prasath

... Petitioner

Vs

T.R.Hemapriya

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the case in O.S.No. 103 of 2021 pending on the file of the Family Court at Nagercoil and to transfer the same on the file of the Sub-Court, Alandur.

For Petitioners : Mr.P.Anandakumar

ORDER

The petitioner/husband has filed the above Transfer Civil Miscellaneous Petition seeking to withdraw O.S.No.103 of 2021 filed by the wife pending on the file of the Family Court, Nagercoil and transfer the same to the file of the Subordinate Court, Alandur.



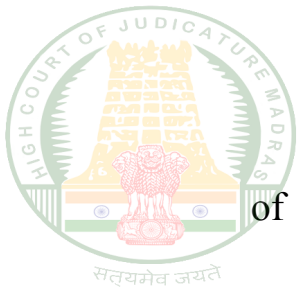
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2. The parties are hereinafter referred to in the same ranking as before the trial Court. The plaintiffs have filed the above suit seeking a decree to realize a sum of Rs.20,000/- per month for the 1st plaintiff, and Rs.15,000/- each for 2nd and 3rd plaintiffs as future maintenance and to create a charge on the properties of the defendant.

3. The 1st plaintiff and the defendant had got married on 14.07.2008 and out of this wedlock, the plaintiffs 2 and 3 were born. The plaintiffs would contend that at the time of her marriage, she was presented with a sum of Rs.4,00,000/- as dowry, 13 ½ sovereign gold chain, 2 sovereign gold bracelet and 1 sovereign gold ring to the defendant and 150 gold jewels to the 1st plaintiff. The 1st plaintiff's parents have also gifted jewellery to the defendant's sisters and brothers. The household articles were also given to the 1st plaintiff and in addition to this, a sum of Rs.25,00,000/- was paid by the 1st plaintiff's parents for purchasing a house site in the names of both 1st plaintiff and the defendant. However, the defendant has proceeded to purchase it in his favour. The 1st plaintiff had also given 50 sovereigns



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of gold to meet the expenses for construction. The defendant was working in a Company in Chennai and was residing in a rental house.

Thereafter, he joined in a Company at Bombay and was later transferred back to Chennai. After the birth of the children, the defendant was deputed to Africa and he had sent the 1st plaintiff back to her parents home at Varyakarai. The 1st plaintiff would submit that she has been residing with her parents and the defendant has not been giving any maintenance either to her or to his children. He is drawing a monthly sum of Rs.4,00,000/- in Africa. Since the facilities in the 1st plaintiff's house were inadequate, the parents of the 1st plaintiff has constructed a separate house for her and her children to reside in. In fact, the defendant in November 2018, came to the 1st plaintiff's house and stayed with her and promised to send money regularly for maintenance. This assurance was however observed in breach and to add insult to injury, the defendant had filed H.M.O.P.No.78 of 2018 before the Subordinate Judge, Padmanabhapuram for dissolution of marriage. The plaintiffs, who have been deserted by the defendant and are totally under the care and custody of the 1st plaintiff's parents, have come forward with the suit in question.



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4. In the affidavit filed in support of the instant Civil Revision Petition, the petitioner-husband would contend that he had filed H.M.O.P.No.78 of 2018 seeking a divorce. Subsequently, the respondent-wife had filed the suit in O.S.No.338 of 2019 for maintenance. Initially both the above cases were filed before the Family Court, Padmanabhapuram. Later, they were transferred to the Family Court at Nagercoil and re-numbered as H.M.O.P.No.481 of 2020 and O.S.No.103 of 2021 respectively and the same are pending.

5. It is the petitioner's contention that he has been subjected to several criminal complaints at Kanyakumari and being harassed and threatened by the respondent's people. Therefore, he had filed Tr.C.M.P.No.771 of 2024 before the Madurai Bench of the Madras High Court seeking to transfer H.M.O.P.No.708 of 2024 filed by him for restitution of conjugal rights, pending on the file of the Subordinate Court, Alandur to the Family Court, Nagercoil.

6. The petitioner would submit that he is always ready and



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willing to live with his wife and children. However, his wife's family is a bad influence on her and on account of the life threat he would face at Nagercoil, he has come forward with this transfer petition.

7. Heard the learned counsel for the petitioner and perused the materials available on record.

8. Admittedly, the respondent is residing at Kanyakumari. Further, the petition for restitution of conjugal rights appears to have been filed nearly 6 years after the filing of the maintenance petition by the wife for which the husband has now filed Tr.C.M.P.No.771 of 2024 before the Madurai Bench of the Madras High Court wherein he would submit that the children are studying at St.Michael's Higher Secondary School, Kattathurai and that he has been sending money to the children for their educational expenses directly to the School.

9. Taking into account the fact that the 1st plaintiff and her children are residing at Kanyakumari and the children are also studying



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there, it would be inconvenient for the respondent/wife to travel to the Sub Court at Alandur for giving evidence. Further, the respondent has only claimed that he is not in a position to go to Kanyakumari owing to a threat. He has also filed a complaint before the police authorities who would take care of the same. No other valid reasons have been given for transfer. Therefore, this Civil Miscellaneous Petition is dismissed. However, the learned Judge, Family Court, Namakkal is directed not to insist upon the presence of the respondent-husband for all non effective hearings except for attending counselling and for adducing evidence. No Costs. Consequently, connected miscellaneous petition is closed.

21.03.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,

1. The Family Judge,
Nagercoil
2. The Sub-Court, Alandur.



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P.T.ASHA, J.,

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