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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.201 of 2025
and
C.M.P.No.4044 of 2025

J.Sushmitha ... Petitioner / Respondent

Versus

E.Ashwin ... Respondent / Petitioner

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw the petition in H.M.O.P.No.5044 of 2024 pending on the file of II Additional Family Court, Chennai and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.K.N.Arun Prasad

O R D E R

The learned counsel for the petitioner / wife submits that the marriage between the petitioner and the respondent was solemnized on 26.11.2020. Due to matrimonial disputes, the respondent / husband filed a petition in H.M.O.P.No.5044 of 2024 on the file of the II Additional Family

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Court, Chennai, seeking a decree of divorce on the ground of cruelty. The petitioner / wife is presently residing with her aged parents in Coimbatore. Her father is a chronic heart patient undergoing treatment in Coimbatore. The learned counsel further submits that, except for her father, no one is available to accompany her for each hearing in Chennai. Moreover, the distance between Coimbatore and Chennai is more than 450 Kilometers, making travel extremely difficult without proper support.

2. Per contra, the learned counsel appearing for the respondent submits that the allegations stated in the affidavit are false, and a detailed counter affidavit has been filed in this regard. The learned counsel further submits that the Family Court proceedings can be conducted through video conferencing, and the petitioner can appear via video conferencing. If her physical presence is required, she can be accompanied by her brother. The learned counsel further submits that allowing the petition would cause serious prejudice to the respondent and, therefore, prayed for the petition to be dismissed.

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3. 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".*

5. It is also relevant to refer the decision made by the Madurai

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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. In the light of the proposition laid down in the judgment of the Hon'ble Supreme Court in ***N.C.V.Aishwarya*** case cited *supra* and also in the light of 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 H.M.O.P.No.5044 of 2024 is hereby withdrawn from the file of the learned II Additional Family Court, Chennai and transferred to the file of the learned Family Court, Coimbatore. Considering the facts there shall be

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no orders as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.09.2025

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Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

To

1. The learned II Additional Family Court, Chennai.
2. The learned Family Court, Coimbatore.

M. JOTHIRAMAN, J.

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