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Tr.CMP.No.293 of 2024 and C.M.P.No.5952 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.293 of 2024

and

C.M.P.No.5952 of 2024

C.Kaviya

... Petitioner / Respondent

Versus

P.Manikandan

... Respondent / Petitioner

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw the case in H.M.O.P.No.94 of 2021, pending on the file of learned Principal Sub-Ordinate Court, Tiruchirapalli and to transfer the same on the file of Learned Additional Sub-Ordinate Court, Kallakurichi.

For Petitioner : Mr.A.Manojkumar

For Respondent : Mr.D.Thirugnanam

ORDER

The wife has filed the present petition seeking transfer of H.M.O.P.No.94 of 2021 from the file of the learned Principal Subordinate Court, Tiruchirapalli, to the file of Learned Additional Subordinate Court, Kallakurichi.



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2. The learned counsel for the petitioner / wife submits that the marriage between the petitioner and the respondent was solemnized on 29.05.2017 at Arulmighu Kaaya Nirmaleswarar Temple, Kottai, Attur, Salem District. The respondent filed a petition in H.M.O.P.No. 94 of 2021 before the learned Additional Sub-Court, Trichirapalli, seeking dissolution of marriage on the ground of divorce. In the meanwhile, the petitioner had instituted a maintenance case in M.C.No.4 of 2021 on the file of the Judicial Magistrate No.2, Kallakurichi, against the respondent. Subsequently, the petitioner also filed a petition for restitution of conjugal rights in H.M.O.P.No.190 of 2023 on the file of the learned Additional Sub Court, Kallakurichi. The learned counsel further submits that the petitioner is residing with her parents at Kallakurichi and is taking care of her six years old child. It is also stated that the petitioner is unable to travel a distance of 142 kilometers for every hearing from Kallakurichi to Trichirapalli.

3. Per contra, the learned counsel for the respondent would submit that the respondent is a Government employee and that allowing this petition would cause serious prejudice to the respondent. Hence, the learned counsel



prayed for dismissal of the petition.

4. 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.

5. 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



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by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions”.

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

7. 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.



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8. Accordingly, this transfer civil miscellaneous petition is allowed.

The case in H.M.O.P.No.94 of 2021 is hereby withdrawn from the file of the learned Principal Subordinate Court, Tiruchirapalli and transferred to the file of the learned Additional Subordinate Court, Kallakurichi. No costs. Connected C.M.P. is closed.

9. Considering the age of the case and also considering the stage of the case, the learned Additional Subordinate Court, Kallakurichi, is requested to dispose of the case in H.M.O.P.No.94 of 2021 as expeditiously as possible.

09.10.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

1. The learned Principal Subordinate Court, Tiruchirapalli.
2. The learned Additional Subordinate Court, Kallakurichi.



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M. JOTHIRAMAN, J.

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