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Tr.C.M.P.No.419 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.C.M.P.No.419 of 2024
and C.M.P.No.8645 of 2024

S.Mahalakshmi

...Petitioner

Vs

S.R.Thamilsaran

...Respondent

Prayer:Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw the case in F.C.O.P.No.79 of 2024 pending on the file of the Family Court, Erode, and transfer the same to the Family Court, Salem.

For Petitioner(s): Mr.J.Jayan

For Respondent(s): Mr.Titus Enock

ORDER

This petition has been filed to withdraw F.C.O.P.No.79 of 2024 pending on the file of the Family Court, Erode, and transfer the same to the Family Court, Salem.



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2. Heard the learned counsel on both sides.

3. The learned counsel appearing for the petitioner/wife would submit that the respondent/husband has filed divorce petition before the Family Court, Erode in F.C.O.P.No.79 of 2024, which is pending. The petitioner's father had abandoned the family during her childhood, who is now suffering from serious health issues. Without making any effort for re-union, the respondent-husband has filed the divorce petition. The petitioner further submits that travelling from Salem to Erode takes more than three hours, covering a distance of about 85 kilometers, which makes it difficult for her to effectively contest the case.

4. *Per contra*, the learned counsel appearing for the respondent/husband submitted that the respondent is working as an Assistant Engineer in the Municipal Corporation at Erode and objected to the transfer of the case.



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

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:-



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"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. Considering the reasons stated in the affidavit, this Court is inclined to allow the petition. The personal appearance of the respondent/husband is dispensed with. However, it is made clear that as and when required by the court below, the respondent/husband shall appear and contest the case.

9. Accordingly, **this transfer civil miscellaneous petition is allowed.**

The case in F.C.O.P.No.79 of 2024 is hereby withdrawn from the file of the Family Court, Erode and transferred to the file of the Family Court, Salem. The learned Judge shall expedite the final hearing/disposal of the case in F.C.O.P.No.79 of 2024. No costs. Connected C.M.P. is closed.

22-09-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes;
Neutral Citation:Yes/No
To

- 1.The Family Court, Erode.
2. The Family Court, Salem.



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