



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.02.2025

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

Tr.C.M.P.No.389 of 2023

and

C.M.P.No.8442 of 2023

R.Nivedha

... Petitioner

Vs.

V.Harikrishnan

...Respondent

PRAYER: The Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC, praying to withdraw and transfer the H.M.O.P.No.73 of 2022 on the file of the Subordinate Court at Arakkonam to Subordinate Court at Poonamallee.

For Petitioner :Mr.A.Gopinath

For Respondent :No appearance - served



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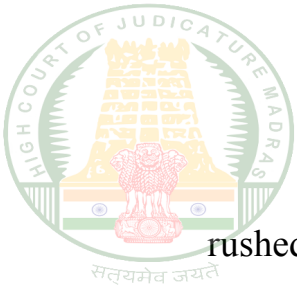
ORDER

The wife who is the respondent is the petitioner for restitution of conjugal rights has filed this Transfer Civil Miscellaneous Petition (Tr.C.M.P.) seeking to withdraw and transfer H.M.O.P. No. 73 of 2022, currently pending before the Sub-Court, Arakkonam, to the Sub-Court, Poonamallee.

2. Brief Facts:

The respondent-husband filed H.M.O.P. No.73 of 2022 before the Sub-Court, Arakkonam, seeking restitution of conjugal rights. Upon receiving notice and understanding the substance of the matter, the petitioner has filed this Tr.C.M.P., contending that she along with her daughter, Thankishka Sai, were thrown out of the matrimonial home after living subjected to grave torture and cruelty at the hands of the respondent and his family.

3. Despite having expelled the petitioner from his house and with the mala fide intention of avoiding any maintenance order, the respondent



rushed to file the application for restitution of conjugal rights in H.M.O.P.

No. 73 of 2022. Upon receiving notice of these proceedings, the petitioner attempted to resolve the matter amicably. With this intent, she, along with her parents, visited the respondent's uncle's house, where he was present with his parents. However, while attempting to settle the dispute, the respondent's family members abused the petitioner and her parents with filthy language and physically assaulted them. Consequently, a complaint was lodged with the Inspector of Police, Ayanavaram, on 29.10.2022, regarding the said incident.

4. The learned counsel for the petitioner further submits that she has filed a maintenance claim petition before the learned Judicial Magistrate No. II, Poonamallee. The respondent, who has not been paying maintenance to either the petitioner or their daughter, has simultaneously filed an application for restitution of conjugal rights at Arakkonam. The petitioner finds it extremely difficult to travel from Tiruverkadu to Arakkonam for each hearing. Furthermore, during these court visits, the minor child is left alone at her parental home, and the petitioner incurs significant expenses to attend the hearings of H.M.O.P. No. 73 of 2022 at Arakkonam. Therefore,



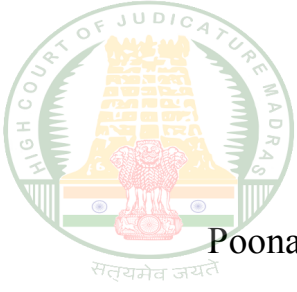
she has sought the transfer of the case from the Sub-Court, Arakkonam, to the Sub-Court, Poonamallee.

5. Heard the learned counsels appearing for both the petitioner and the respondent.

6. The respondent-husband, despite being served, has not entered an appearance.

7. It is also an undisputed fact that the minor daughter, who is just three years old, is in the care and custody of the petitioner. The petitioner is compelled to either leave the child behind or carry her to every hearing at the Court in Arakkonam, causing undue hardship.

8. Additionally, the petitioner submits that it would be both expensive and time-consuming for her to travel from Peralam, Thiruvavarur District, to Ambattur for the hearings before the Sub-Court, Ambattur as she is not receiving any maintenance from the respondent her husband. Further her petition seeking maintenance before the Judicial Magistrate No.II,



Poonamallee in M.C.Sr.No.163 of 2023 is pending.

WEB COPY 9. In these circumstances, the request for a transfer appears justified.

Accordingly, this Transfer Civil Miscellaneous Petition is allowed, and H.M.O.P. No. 73 of 2022 is withdrawn from the file of the Subordinate Court at Arakkonam and transferred to the Subordinate Court at Poonamallee. Consequently, the connected C.M.P. is closed.

12.02.2025

nvi

Index:Yes/No

Speaking Order:Yes/No

To

1. The Subordinate Court at Arakkonam
2. The Sub-Court, Poonamallee



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P.T.ASHA,J.,

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