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Tr.CMP.No.440 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.440 of 2024

&

C.M.P.No.9003 of 2024

A.Sushila

... Petitioner

Versus

J.Arumugam

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC, to withdraw and transfer H.M.O.P.No.76 of 2023 on the file of the Additional Sub Court, Dharmapuri, to the Sub Court, Bhavani, Erode.

For Petitioner : Mr.S.Paratha Sarathi

For Respondent : No appearance

ORDER

The petitioner / wife has come up with the above transfer petition seeking transfer of H.M.O.P.No.76 of 2023 from the file of the Additional Sub Court, Dharmapuri, to the file of the Sub Court, Bhavani, Erode.

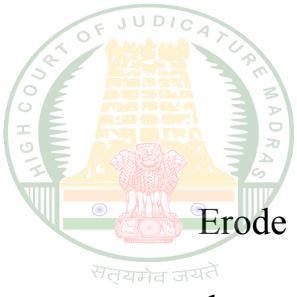


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2. Despite service of notice in the above transfer petition, the respondent has neither chosen to appear in person nor through counsel. The name of the respondent is also printed in the cause list. Name of the respondent is called out, but there is no response. Hence, he is set *ex parte*. I have proceeded to hear the learned counsel for the petitioner. I have also gone through the affidavit filed in support of the request for transfer.

3. The learned counsel appearing for the petitioner would submit that the respondent/husband has filed H.M.O.P.No.76 of 2023 before the Additional Sub Court, Dharmapuri, seeking divorce and the case has been transferred to the Family Court, Dharmapuri and re-numbered as O.P.No.251 of 2024. The learned counsel would further submit that the petitioner/wife is residing at Bhavani along with her parents and the petitioner has no independent source of income and is also maintaining two years old child. It is also further submitted that the petitioner has to maintain herself and her child and therefore, it is extremely difficult for the petitioner to attend every hearing in Family Court, Dharmapuri, from her native place at



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Erode which is more than 150 kms to attend the Court proceedings. Hence, the present petition is filed seeking transfer.

4. Though notice was sent to the respondent on 22.04.2024, no one appeared on behalf of the respondent.

5. The petitioner has stated that she is living with her mother along with her child at Bhavani and it would be extremely difficult for her to attend each and every hearing by traveling nearly 150 kms by incurring huge amount and that apart, other than her mother, there is no one to accompany her to attend the Court hearings. I am satisfied that the petitioner has made out good ground for transferring the case and it is just and necessary to transfer the case in O.P.No.251 of 2024 pending on the file of the Family Court, Dharmapuri, to the file of the Sub Court, Bhavani, Erode.

6. 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:-



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"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".

7. 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."



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8. 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.

9. Accordingly, this Transfer Civil Miscellaneous petition is allowed. The case in O.P.No.251 of 2024 is hereby withdrawn from the file of the Family Court, Dharmapuri and transferred to the file of the Sub Court, Bhavani, Erode. No costs. Connected Civil Miscellaneous Petition is closed.

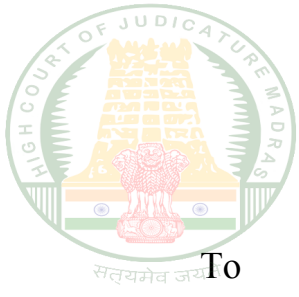
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ssb

Index: Yes / No

Speaking Order : Yes / No

NCC : Yes / No



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To

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1. The Family Court, Dharmapuri.
2. The Sub Court, Bhavani, Erode.



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M. JOTHIRAMAN, J.

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