



Tr.C.M.P. No. 434 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED:07.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

Tr. C.M.P. No. 434 of 2024

and

C.M.P. No. 8951 of 2024

D. Rajalakshmi

... Petitioner

Vs.

Dilip Janarthanan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw and transfer H.M.O.P.No.71 of 2024 on the file of Sub Court, Poonamallee to Family Court, Coimbatore.

For Petitioner : Mr. A. Muthukumar
for Mr. C.S. Anu Varghese

For Respondent : Ms. S. Mathumitha
for Mr. V. Karthikeyan



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ORDER

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The wife seeks transfer of proceedings in H.M.O.P. No. 71 of 2024 from the file of the Sub Court, Poonamallee to the file of the Family Court, Coimbatore.

2. Learned counsel for the petitioner states that the petitioner-wife is having a minor girl child aged 5 years. She is taking care of her aged parents also it is inconvenient for the petitioner to come all the way to Sub Court, Poonamallee to attend the proceedings initiated by the respondent-husband seeking dissolution of the marriage in H.M.O.P.No.71 of 2024. Therefore, the petitioner seeks transfer of the HMOP filed by the respondent-husband to the file of the Family Court, Coimbatore. The said transfer request is objected to by the respondent.

3. Learned counsel appearing for the respondent-husband would state that before the Sub Court, the physical presence of the petitioner is not necessary for all hearings and secondly, the petitioner has not substantiated the self serving claims made in the affidavit in support of the transfer application.



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4. I have carefully considered the submissions of the learned counsel on either side.

5. Learned counsel for the respondent also relied on the decision of the Hon'ble Supreme Court in *Anindita Das vs. Srijit Das* reported in **(2006) 9 SCC 197**, where the Hon'ble Supreme Court finding that the leniency of the Supreme Court was being misused by women, the Supreme Court was now required to consider each petition requesting for transfer, on merit. In the case before the Hon'ble Supreme Court, it was a ground taken by the wife that she had a small child to take care of and therefore, she is not able to go to attend the proceedings initiated by the respondent-husband. However, the Hon'ble Supreme Court held that when there are grandparents available to look after the child and the respondent is willing to bear the expenses for travel as well as stay, including expenses for travel and stay of a companion for each visit, the request for transfer was rejected.

6. Learned counsel for the respondent would also placed reliance on the decision of the Gujarat High Court in *Alpaben Nishithkumar Bhatt vs.*



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Nishithkumar Sureshchandra Bhatt, where the request of the wife seeking transfer of matrimonial proceedings from Vadodara to Ahmedabad citing inconvenience to travel in view of responsibility to take care of a minor child was dismissed, following the ratio laid down by the Hon'ble Supreme Court in **Anindita Das's** case.

7. I have carefully considered the submissions advanced by the learned counsel on either side.

8. No doubt, the Hon'ble Supreme Court and the Gujarat High Court, following the ratio laid down by the Supreme Court in **Anindita Das's** case, held that it is not necessary that merely because the wife seeks transfer, leniency should be shown. The said decision of the Hon'ble Supreme Court was taking into account of the fact that at least 10 to 15 transfer petitions are on board of each Court on every admission day before the Hon'ble Supreme Court and the Supreme Court felt that women were misusing the leniency shown by the Hon'ble Supreme Court and in such circumstances, the Hon'ble Supreme Court held that the transfer request will have to be



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considered on a case to case basis. The said ratio is followed by the Gujarat High Court in *Alpaben's* case.

9. Coming to the facts of the present case, the petitioner/wife admittedly has to take care of a 5 year old girl child. It is the specific contention of the petitioner that the petitioner's mother and father are aged and they are not in a position to even accompany the petitioner to attend the proceedings before the Sub Court, Poonamallee.

10. Therefore, I find that the petitioner-wife has made out a case for transfer. At the same time, the difficulty of the respondent-husband will also have to be taken into account and factored while ordering transfer.

11. In the light of the above, the Transfer Civil Miscellaneous Petition is ordered as prayed for. H.M.O.P. No. 71 of 2024 is withdrawn from the file of the Sub Court, Poonamallee and transferred to the file of the Family Court, Coimbatore.



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12. The presence of the respondent-husband shall not be insisted upon by the Family Court, Coimbatore for all hearing dates. The respondent-husband shall be entitled to engage a counsel to represent him during regular hearings and whenever the presence of the respondent-husband is absolutely necessary for his examination in chief and cross alone, the respondent will be required to appear in-person.

Consequently, connected miscellaneous petition is closed. No costs.

07.08.2025

Index: Yes/No
Neutral Citation: Yes/No
AT

To
1.The Sub Court, Poonamallee.

2.The Family Court, Coimbatore



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P.B.BALAJI,J.

AT

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