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Tr.C.M.P.No.488 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.488 of 2024
& C.M.P.No.10013 of 2024

Bhavani

.. Petitioner

Vs

Dinesh

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case in H.M.O.P.No.113 of 2018 pending on the file of the learned Principal Sub Court, Tindivanam and transfer the same to the file of the learned Family Court, Puducherry.

For Petitioner : Mr.V.V.Sathya
For Respondent : No appearance

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.113 of 2018 from the file of the learned Principal Sub Court, Tindivanam and transfer the same to the file of the learned Family Court, Puducherry.

2. I heard Mr.V.V.Sathya for the transfer petitioner. I have gone through the affidavit.



Tr.C.M.P.No.488 of 2024

WEB COPY

3. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel. Since the service has been completed, I took up the transfer petition for disposal.

4. The petitioner married the respondent on 07.02.2017. From the wedlock, they were blessed with a male child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.113 of 2018 for divorce before the learned Principal Sub Court, Tindivanam. Pleading that the wife is residing in Puducherry and unable to travel from Puducherry to Tindivanam, she has moved this transfer petition.

5. The Parliament, while amending the Hindu Marriage Act, has incorporated Section 19(iii), permitting a wife to initiate a proceeding in a place where she is residing. This is an indication to the Court that the convenience of the wife has to be given precedence by the Court. In line with this Parliamentary amendment, this Court and the Supreme Court have consistently held in matters of transfer, the convenience of the wife should be given a superior consideration than that of the husband. Since it will be difficult for the wife to leave the child behind and travel to attend the Court, I



Tr.C.M.P.No.488 of 2024

am inclined to accept the transfer.

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6.Accordingly, H.M.O.P.No.113 of 2018 is withdrawn from the file of the learned Principal Sub Court, Tindivanam and transferred to the file of the learned Family Court, Puducherry.

7. The Family Court need not insist upon the appearance of the husband on all hearing dates. For non-essential and procedural hearings, the husband will be represented by a counsel. He shall however present himself before the Court when the Trial Court passes a specific order for his appearance or when his presence is indispensable.

8.With the above observations, the Transfer Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
KST

To

1.The Principal Sub Court, Tindivanam.

2.The Family Court, Puducherry.



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Tr.C.M.P.No.488 of 2024

V. LAKSHMINARAYANAN,J.

KST

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24.01.2025