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Tr.C.M.P.Nos.463 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 17-09-2025**

CORAM

**THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**Tr.C.M.P.Nos.463 of 2024  
and C.M.P.Nos.9403 of 2024**

D. Yuvakannan

... Petitioner

Versus

S. Nadhiya

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C.  
to withdraw and transfer the case in H.M.O.P.No.102 of 2023 from the file  
of the Sub-Court, Perundurai, to the file of the Sub-Court, Kangayam.

For Petitioner : Mr.A.K. Sachindhar

For Respondent : No appearance



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## **ORDER**

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The petitioner has come up with the above transfer petition, seeking transfer of H.M.O.P.No.102 of 2023 from the file of the Sub-Court, Perundurai, to the Principal Sub-Court, Kangayam.

2. Despite service of notice in the above transfer petition, the respondent has neither chosen to appear in person nor through counsel. The respondent is called and set ex-parte. Hence, 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 petitioner has stated that the respondent wife has filed a suit in O.S. No.88 of 2023 before the District Munsif, Perundurai praying for maintenance and creating a charge over the petitioner's property and M.C. No.9 of 2023 before the Judicial Magistrate, Kangayam, claiming maintenance. While being so, the petitioner has filed HMOP No.102 of 2023 before the Sub Court, Perundurai, seeking for restitution of conjugal rights. The petitioner is sole earning member of his family, living along with his old



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aged mother and he is also striving hard to support his son's education and taking care of his old aged mother. Hence, it will be very difficult to travel from Perundurai to Kangayam for attending the aforesaid all proceedings. Hence, seeks the relief as prayed for. I am satisfied that the petitioner has made out good ground for transferring the said transfer petition. It may be appropriate to cite the Judgment of Hon'ble Apex Court in the case of "**N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**" reported in **MANU/SC/1211/2022** wherein it has been held as follow:

*"9. The cardinal principal 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 proceedings. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to 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.*



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*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."*

4.Further, it is also relevant to cite the Judgment of this Court, in the case of **"R.Thalapathi Prabakaran .Vs. K. Gnanasundari"** reported in **2025 SCC OnLine Mad 4335** wherein it has been observed that the convenience of wife is paramount consideration while deciding the Tr.C.M.P. Cases. Taking into considerations, the aforesaid Judgments, I am inclined to take similar approach in the present case also since the maintenance case filed by the respondent/wife in M.C. No.9 of 2023 pending on the file of Judicial Magistrate, Kangayam. It is to be noted that the learned counsel who appeared for the wife in another case in Tr.C.M.P.No.462 of 2024, consented to transfer the case in O.S. No.88 of 2023 filed by the respondent wife for claiming maintenance and creating charge over the property before the District Munsiff, Perundurai to Sub-Court, Kangayam.



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**WEB COPY** 5. In the light of the above, this Transfer Civil Miscellaneous Petition is allowed. The case in HMOP.No.102 of 2023 is withdrawn from the file of the Sub-Court, Perundurai and transferred to the file of the Sub-Court, Kangayam. Considering the facts, there shall be no orders as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

**17.09.2025**

(2/2)

Lbm

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

**M.JOTHIRAMAN J.**

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To

- 1.The Sub-Court, Perundurai.
- 2.The Sub-Court, Kangayam.

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