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Tr.C.M.P.No.475 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.475 of 2024 & C.M.P.No.9651 of 2024

Charanya

.. Petitioner

Vs

K.Ganesh

.. 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.41 of 2024 pending on the file of the learned Subordinate Judge, Nagapattinam and transfer the same to the file of the learned Subordinate Judge, Tiruvarur to be tried along with HMOP 98 of 2023.

For Petitioner : Ms.V.Mythili Srinivas
For Respondent : Mr.A.Sundaravadhanan

ORDER

I heard both sides. I have gone through the affidavit.

2.This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.41 of 2024 from the file of the learned Subordinate Judge, Nagapattinam and transfer the same to the file of the learned Subordinate Judge, Tiruvarur to be tried along with HMOP No.98 of 2023.



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3.The petitioner married the respondent on 24.05.2021. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in H.M.O.P.98 of 2023 for divorce before the learned Subordinate Judge at Tiruvarur. The respondent/husband initiated proceedings in H.M.O.P.No.41 of 2024 before the learned Subordinate Judge, Nagapattinam for restitution of conjugal rights. Pleading that the wife is a permanent resident of Tiruvarur and unable to travel from Tiruvarur to Nagapattinam for the hearing in HMOP No.41 of 2024 filed by the husband, she has moved this transfer petition.

4.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. As the distance between Tiruvarur and Nagapattinam is considerable, I am inclined to accept the transfer.



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5. Accordingly, H.M.O.P.No.41 of 2024 is withdrawn from the file of the learned Subordinate Judge, Nagapattinam and transferred to the file of the learned Subordinate Judge at Tiruvarur. The learned Subordinate Judge at Tiruvarur, on transfer of the proceedings, shall re-number the same and try it along with HMOP 98 of 2023, which is said to be pending on his file.

6. The Transfer Civil Miscellaneous Petition is ordered on the above terms. 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 Subordinate Judge, Nagapattinam.
- 2.The Subordinate Judge, Tiruvarur.



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V. LAKSHMINARAYANAN,J.

KST

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