



Tr. CMP.No.500 of 2024 and CMP. No.10216 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2025

CORAM:

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

Tr. CMP.No.500 of 2024 and CMP. No.10216 of 2024

Muthuraman

... Petitioner

vs.

Anantha Jothi

... Respondent

**Prayer:** Petition filed under Section 24 of the Civil Procedure Code seeking to withdraw H.M.O.P. No.154 of 2022 pending on the file of the Sub Court, Cheyyar, Tiruvannamalai District and transfer the same to the Sub Court, Alandur, Chengalpattu District.

For Petitioner : Mr.S.Sathish Kumar

For Respondent : No appearance

**ORDER**

This petition has been filed to withdraw H.M.O.P. No.154 of 2022, pending on the file of the Sub Court Cheyyar, Tiruvannamalai District and transfer the same to the Sub Court, Alandur, Chengalpattu District.

2.Learned counsel for the petitioner would submit that the respondent wife



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is working in HCL Technology, Chennai and taking advantage of her native place, she is residing at Cheyyar with her brother. Learned counsel for the petitioner further submitted that the respondent wife is forcibly occupying the house of the petitioner husband and to that effect, the petitioner husband has lodged a complaint on 20.10.2022 and the same was acknowledged vide CSR No.118/2022 and as of now, the petitioner husband is residing in his sister's house at Chennai. In order to counter the complaint lodged by the petitioner husband, the respondent wife has filed a petition in H.M.O.P. No.154 of 2022 on the file of the Subordinate Court, Cheyyar seeking restitution of conjugal rights as if she is residing at Cheyyar. Only to harrass the petitioner husband, she has chosen to file the above petition before the Sub Court, Cheyyar. In fact, though the particulars mentioned as if she is residing at Cheyyar, she is actually residing at No.62 Second Cross Street, Workers Estate, Neelankarai, Chennai - 600 115 from 19.11.2022 to till date, which is the house belonged to the petitioner husband. However, the petitioner husband also filed a petition in H.M.O.P. No.22 of 2024 on the file of Sub Court, Alandur, Chengalpattu for divorce on the ground of cruelty. Since the respondent wife is residing at Chennai, if the H.M.O.P. No.154 of 2022 pending on the file of the Sub Court, Cheyyar, Tiruvannamalai District is transferred to the



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file of the Sub Court, Alandur, it is convenient for either parties and it is also necessary to avoid the complexities.

3.Though notice has been served on the respondent, she has not chosen to appear before this Court either in person or through counsel. Therefore, the respondent is called absent and set exparte.

4.It is not in dispute that the respondent wife filed a petition for restitution of conjugal rights in H.M.O.P. No.154 of 2022 on the file of the Sub Court, Cheyyar, which is pending for adjudication and the petitioner husband has also filed a petition for divorce in H.M.O.P. No.22 of 2024 on the file of the Sub Court, Alandur, which is also pending.

5.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:-

*"9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice*



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*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.*

*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”.*

6.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*



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*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."*

7.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, I am not inclined to allow this petition.

8.Since the convenience of the wife has to be taken into consideration and the reasons stated in the affidavit are not sufficient to transfer the case, this petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

**M.JOTHIRAMAN, J.**

vga

9.However, the appearance of the petitioner is dispensed with before the Sub Court, Cheyyar, Tiruvannamalai District and the petitioner shall appear in person before the Court concerned as and when his personal appearance is



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WEB COPY required before the Court below.

**25.09.2025**

To  
1.The Sub Court,  
Cheyyar,  
Tiruvannamalai District.

2.The Sub Court,  
Alandur,  
Chengalpattu District.

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