



WEB COPY

Tr.CMP.No.730 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

Tr.CMP.No.730 of 2024
and
CMP.No.16110 & 16111 of 2024

J.Vidhya Devi

... Petitioner

Vs.

Jayaprakash

... Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, seeking to withdraw and transfer the above FCOP No.89 of 2021 pending before the Family Court at Erode to Sub Court, Bhavani to be tried along with H.M.O.P.No. 54 of 2024 pending before the Subordinate Court at Bhavani.

For Petitioner : Mr.Sharada Vivek

For Respondent : Mr.S.Karpagapriya

ORDER

The petitioner/wife seeks transfer of F.C.O.P. No. 89 of 2021 pending before the Family Court, Erode to the file of the Sub-Court, Bhavani, to be tried along with H.M.O.P. No. 54 of 2024 filed by the petitioner for restitution of conjugal rights.



WEB COPY

2. The learned counsel appearing for the petitioner/wife submits that the petitioner is a single lady and she has several health issues. Therefore, she is not able to undertake travel of 20 kms to attend the proceedings before the Family Court, Erode. She also contends that the mother of the respondent is a very influential person in the locality and had issued threats to the petitioner and therefore, the petitioner apprehends that she will not get fair treatment if she is forced to attend the proceedings before the Family Court, Erode. Under such circumstances, the petitioner/wife seeks transfer of the divorce proceedings initiated by the respondent/husband to the file of the Sub-Court, Bhavani, where the petitioner's application for restitution of conjugal rights is pending in H.M.O.P.No. 54 of 2024.

3. The learned counsel appearing for the respondent/husband, however, states that the Transfer C.M.P itself is not maintainable, since the wife has approached the Sub-Court, Bhavani and filed an application for restitution of conjugal rights, without the said Court having territorial jurisdiction. He would also invite my attention to the order passed by this Court on 28.02.2025, wherein the Registry was directed to ascertain the correct jurisdiction in which the petitioner resides, taking into consideration



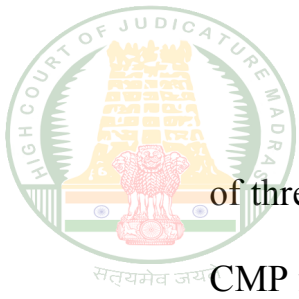
Tr.CMP.No.730 of 2

WEB COPY

her residential address at Elavamalai Village, Erode District. Pursuant to the said direction, on 02.04.2025, the Registry has verified and reported that the residential address of the petitioner falls only within the jurisdiction of Sub Court, Erode. On that date, at the request of the learned counsel appearing for the petitioner to get instructions, the matter was adjourned and thereafter it has been adjourned from time to time and posted today for final argument.

4. The learned counsel appearing for the petitioner states that admittedly, there has been a mistake committed by the advocate who represents the petitioner before the trial Court in invoking the jurisdiction of the Sub Court, Bhavani.

5. Be that as it may, considering the fact that the petitioner had earlier filed Transfer C,M.P.No. 680 of 2021, which came to be dismissed by this Court on 27.04.2022 and thereafter, in order to create a ground for transfer, it appears that the petitioner has chosen to file H.M.O.P. No. 54 of 2024 for restitution of conjugal rights before the Sub Ordinate Court, Bhavani, which does not even have jurisdiction and now seeks transfer of the divorce petition filed by the respondent to be tried along with the said H.M.O.P. No.54 of 2024 filed for restitution of conjugal rights, after a lapse



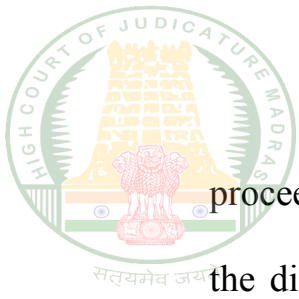
of three years and more importantly, after the dismissal of the earlier Transfer CMP filed by the petitioner/wife.

WEB COPY

6. It is also seen from the affidavit filed in respect of the present Transfer C.M.P No. 730 of 2024 that there is a clear suppression of the filing of the earlier Transfer C.M.P.No.680 of 2021 and also its dismissal. However, the learned counsel for the petitioner states that the petitioner has not brought it to the notice of the present counsel. Hence, there is no mention about the earlier CMP.

7. Be that as it may, in so far as the petitioner is concerned, the petitioner is clearly guilty of suppression of material facts and the very filing of the subsequent H.M.O.P. seeking restitution of conjugal rights in the year 2024, after suffering an order of dismissal in the Transfer CMP, clearly appears to be not bona fide.

8. In view of the above, I see no reason why this Court should entertain the request of the petitioner seeking transfer of the divorce proceedings, which are earlier in point of time, to be tried along with the restitution



Tr.CMP.No.730 of 2

proceedings that have been filed after a lapse of three years from the filing of the divorce petition by the respondent/husband and that too before a Court which does not have territorial jurisdiction.

WEB COPY

9. In view of the same, this Tr.C.M.P.No. 730 of 2024 is dismissed.

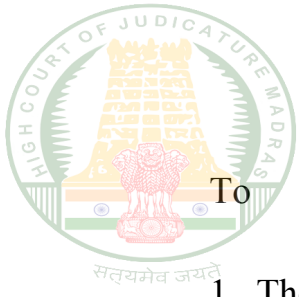
No costs. Consequently, connected miscellaneous petition is closed.

15.07.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-Speaking Order
nsl

P.B.BALAJI, J.

nsl



Tr.CMP.No.730 of 2

To

1. The Family Court, Erode.
2. The Sub Court, Bhavani.

Tr.CMP.No.730 of 2024

15.07.2025