



Tr.C.M.P.No.519 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.519 of 2024
& C.M.P.Nos.11367 and 11368 of 2024

R.Suganya

.. Petitioner

Vs

S.Ramadoss

.. 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.276 of 2023 pending on the file of the Sub Court, Thiruvottiyur, Vriddhachalam and transfer the same to the file of the Family Court, Chennai for joint trial with HMOP No.5141 of 2023.

For Petitioner : Mr.R.Arun Kumar

For Respondent : No appearance

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.276 of 2023 from the file of the learned Sub Court, Thiruvottiyur and transfer the same to the file of the learned Family Court, Chennai.

2. I heard Mr.R.Arun Kumar for the transfer petitioner. I have gone through the affidavit.



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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 23.01.2018. They had adopted a male child on 11.05.2017 and the child is with the petitioner. Due to disputes and differences, the parties have separated. The respondent/husband initiated HMOP No.276 of 2023 for divorce before the Sub Court, Thiruvottiyur, Chennai. The petitioner/wife initiated proceedings in H.M.O.P.No.5141 of 2023 for restitution of conjugal rights before the learned Family Court, Chennai. Pleading that the wife is residing in Madhavaram and unable to travel from Madhavaram to Thiruvottiyur, 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



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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 am inclined to accept the transfer.

6. Accordingly, H.M.O.P.No.276 of 2023 is withdrawn from the file of the learned Sub Court, Thiruvottiyur and transferred to the file of the learned Family Court, Chennai. The learned Family Judge, Chennai, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.514 of 2023 pending on his file.

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 petitions are closed.

24.01.2025

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
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V. LAKSHMINARAYANAN,J.

KST

To

- 1.The Sub Court, Thiruvottiyur.
- 2.The Family Court, Chennai.

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