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Tr.C.M.P.No.606 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 05.12.2025

CORAM:

**THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

Tr.C.M.P. No.606 of 2024

and

C.M.P.No.13139 of 2024

Sudha

... Petitioner

Vs

Prabhu

... Respondent

**PRAYER: :** Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.143 of 2023 on the file of the Subordinate Judge at Mettur and transfer the same to Family Court at Salem.

For Petitioner : Mr.K.Prabhakaran

For Respondent : Mr.M.R.Jothimanian

**ORDER**

Heard

2. This Transfer Civil Miscellaneous Petition has been filed by the petitioner/ wife seeking withdrawal of H.M.O.P.No.143 of 2023, filed by the



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respondent–husband for restitution of conjugal rights on the file of the Subordinate Court, Mettur, and transfer of the same to the file of the Family Court, Salem.

3. The marriage between the petitioner/wife and the respondent/husband was solemnized on 20.11.2009 and two male children were born on 10.01.2012 and 29.06.2013. At the instance of the petitioner, proceedings in D.V.P.No.2 of 2014 and M.C.No.4 of 2014 were initiated before the Judicial Magistrate No.I, Mettur, in which orders of maintenance were passed in favour of the petitioner. Alleging non-compliance, execution proceedings in C.M.P.No.4722 in M.C.No.4 of 2014 were also taken, in which, a non-bailable warrant was issued and later recalled, after partial payment.

4. It is the grievance of the petitioner/wife that, instead of complying with the maintenance order, the respondent/husband first filed H.M.O.P.No.630 of 2019 for divorce before the Family Court, Salem, and, after the petitioner entered appearance and filed her counter, withdrew the same and thereafter, instituted H.M.O.P.No.143 of 2023 before the Subordinate Court, Mettur, for restitution of conjugal rights.



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5. The petitioner is residing with the two minor children at Salem, employed as a House Keeping Supervisor at Pranav Hospital, Salem, and is drawing only a meager salary. She would have to travel about 120 kilometres (up and down) from Salem to Mettur, for each hearing, with the minor children, besides taking leave from work, which, according to her, causes serious hardship.

6. The records *prima facie* show that there are subsisting maintenance and domestic violence proceedings against the respondent; that he has earlier chosen to litigate before the Family Court, Salem, and subsequently, shifted the forum; and that the petitioner, a working woman having the responsibility of two minor children, is now settled at Salem.

7. In matrimonial matters, it is well settled that, other things being equal, the convenience of the wife should ordinarily be given precedence, particularly, where the wife has limited means and is required to travel long distances with young children for each hearing.



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8. In the facts of the present case, continuing the proceedings at Mettur would undoubtedly cause hardship to the petitioner, whereas, no prejudice would be caused to the respondent if the matter is tried at Salem, more so, where he had earlier filed H.M.O.P.No.630 of 2019 before the Family Court, Salem.

9. In the above circumstances, this Court is of the view that the interests of justice would be served by allowing this Transfer Civil Miscellaneous Petition. Accordingly, H.M.O.P.No.143 of 2023 on the file of the Subordinate Judge, Mettur, Salem District, is withdrawn and transferred to the file of the Family Court, Salem. The learned Subordinate Judge, Mettur, is directed to transmit the entire case records in H.M.O.P.No.143 of 2023 to the Family Court, Salem, within a period of four (4) weeks from the date of receipt of a copy of this order.

10. In view of the above, Tr.C.M.P.No.606 of 2024 is allowed; C.M.P.No.13139 of 2024 is closed. There shall be no order as to costs.

**05.12.2025**

*dpq*

Index : Yes/No

NCC : Yes/No

Speaking Order / Non-Speaking Order



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To

1.The Subordinate Judge,  
Subordinate Court,  
Mettur.

2.The Judge,  
Family Court,  
**Salem.**



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**DR. A.D. MARIA CLETE, J**

dpq

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C.M.P.No.13139 of 2024

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