



Tr.C.M.P.No.532 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.532 of 2024
& C.M.P.No.11938 of 2024

S.Dhivya

.. Petitioner

Vs

V.Shanmugam

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case in G.W.O.P.No.93 of 2023 pending on the file of the learned District Sessions Judge, District Court-II, Kanchipuram and transfer the same to the file of the learned Family Court, Chennai.

For Petitioner : Mr.S.P.Vijayaraghavan
For Respondent : Mr.V.V.Ravichandran

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of G.W.O.P.No.93 of 2023 from the file of the learned District Sessions Judge, District Court-II, Kanchipuram and transfer the same to the file of the learned Family Court, Chennai.

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



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3. The petitioner married the respondent on 21.01.2019. From the wedlock, they were blessed with a male child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.256 of 2022 for restitution of conjugal rights before the Sub Court, Kanchipuram. He also filed G.W.O.P.No.93 of 2023 for custody of the child before the learned District Sessions Judge, District Court-II, Kanchipuram. The petitioner/wife has filed M.C.No.16 of 2022 before the Judicial Magistrate, Kanchipuram seeking maintenance which has already been transferred to the file of the VII Additional Family Court, Chennai. Pleading that the wife is residing in Chennai and unable to travel from Chennai to Kanchipuram, 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 Chennai and Kanchipuram is considerable and 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.



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5. Accordingly, G.W.O.P.No.93 of 2023 is withdrawn from the file of the learned District Sessions Judge, District Court-II, Kanchipuram and transferred to the file of the learned Family Court, Chennai to be tried along with M.C.No.16 of 2022 pending on his file.

6. 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.

7. With the above observations, the Transfer Petition is ordered. 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 District Sessions Judge, District Court-II, Kanchipuram.
2. The Family Court, Chennai.



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V. LAKSHMINARAYANAN,J.

KST

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