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Tr.C.M.P.No.524 of 2025 and C.M.P. No.12999 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.C.M.P.No.524 of 2025 and C.M.P. No.12999 of 2025

A.Sofiya Abuthahir

... Petitioner

VS

J.Abuthahir

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw and transfer O.S. No.74 of 2024 on the file of Family Judge at Tiruchirapalli to the Family Court, Salem.

For Petitioner: Mr.A.Rahul

For Respondent: Mr.A.Selvakumar

ORDER

This petition has been filed to withdraw O.S. No.74 of 2024 from the file of the Family Court, Tiruchirapalli and to transfer the same to the file of the Family Court, Salem.

2.Heard the learned counsel on both sides.

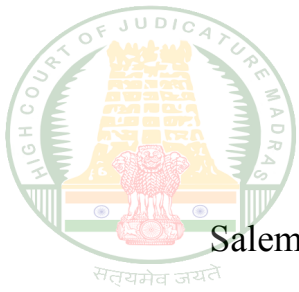


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3.The learned counsel appearing for the petitioner would submit that the petitioner/wife filed a suit for restitution of conjugal rights in O.S. No.30 of 2024 pending on the file of the Family Court, Salem and the respondent/husband filed a suit in O.S. No.74 of 2024 on the file of the Family Court, Tiruchirapalli seeking divorce. Learned counsel for the petitioner/wife would further submit that the petitioner is residing in Salem along with her three children and they are studying in Salem and the petitioner is an un-employed and living under the shelter of her parents. Therefore, the petitioner is not in a position to appear on each and every hearing at Tiruchirapalli and was left with no other choice than to travel 190 kms. one way and appear there at Tiruchirapalli for each hearing. Since it is great difficulty and pressure to travel to Tiruchirapalli, without any support either financially or physically, the case in O.S. No.74 of 2024 may be withdrawn from the file of the Family Court, Tiruchirapalli and transferred to the file of the Family Court, Salem.

4.Per contra, learned counsel appearing for the respondent/husband would submit that if the case is transferred to the file of the Family Court,



Salem, serious prejudice would be caused to the respondent/husband.

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5.I have gone through the affidavit filed in support of this petition and I find merit in the submissions made by the learned counsel for the petitioner/wife.

6.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 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



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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”.

7.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 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."

8.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 inclined to allow this petition.



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9.Considering the reasons stated in the affidavit and since the case filed by the petitioner wife is for restitution of conjugal rights in O.S. No.30 of 2024 pending on the file of the Family Court, Salem and in order to avoid multiplicity of proceedings in various other Courts, it is necessary to transfer O.S. No.74 of 2024 pending on the file of the Family Court, Tiruchirapalli to the Family Court, Salem.

10.Accordingly, this transfer civil miscellaneous petition is allowed. The suit in O.S. No.74 of 2024 is hereby withdrawn from the file of the Family Court, Tiruchirapalli and transferred to the file of the Family Court, Salem. No costs. Consequently, connected C.M.P. is closed.

25.09.2025

vga

M.JOTHIRAMAN,J.

vga

To

1.The Family Judge at
Tiruchirapalli.

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Tr.C.M.P.No.524 of 2025 and C.M.P. No.12999 of 2025

2.The Family Court, Salem

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