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Tr.C.M.P.No.499 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

Tr.C.M.P.No.499 of 2025

& CMP.No.12283 of 2025

B.Karthika

... Petitioner

vs.

S.Vigneshwaran

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw HMOP No.1254/2025 from the file of the III Additional Family Court at Chennai and to transfer the same to the file of the Family Court, Thoothukudi.

For Petitioner : Mr.G.Krishna Kumar

For Respondent : Mr.Seetharam

ORDER

The wife seeks transfer of HMOP No.1254 of 2025 on the file of the III Additional Family Court at Chennai to the Family Court, Thoothukudi.

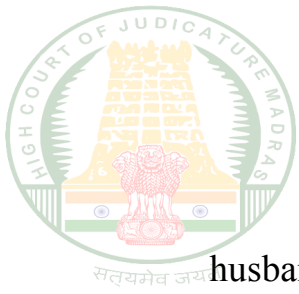
2. Heard Mr.G.Krishna Kumar, learned counsel for the petitioner and Mr.Seetharam, learned counsel appearing for the respondent.



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3. The learned counsel for the petitioner would contend that HMOP has been filed before the III Additional Family Court at Chennai without any territorial jurisdiction. In this regard, he would take me through the averments in the affidavit of HMOP that has been filed by the respondent / husband herein and state that nowhere in the affidavit it is stated that the marriage was either celebrated within the jurisdiction of the Family Court Chennai or the parties reside or lived together in Chennai in order to file HMOP before the Family Court, Chennai.

4. Besides the said legal submission regarding the territorial jurisdiction, Mr.G.Krishna Kumar, learned counsel for the petitioner would also contend that the petitioner has to take care of two school going minor children and she is unable to travel more than 1000 kms for attending the hearings before the III Additional Family Court at Chennai. The learned counsel would further states that the respondent is duly represented by a power agent and no inconvenience would be caused to the Respondent, if transfer is ordered as prayed for.



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5. Per contra, Mr.Seetharam, learned counsel for the respondent/ husband states that admittedly, even to the knowledge of the petitioner, the respondent resides abroad and he is represented by his father as duly constituted power of attorney agent. He would further states that his father is aged 75 years and he would not be in a position to travel all the way to Thoothukudi if the HMOP is transferred to Thoothukudi, accepting the request of the petitioner. He would also state that the respondent is willing to meet the travel and accommodation expenses to enable the petitioner wife to appear before the Family Court at Chennai,

6. I have carefully considered the arguments advanced by the learned counsel on either side.

7. As repeatedly held by the Hon'ble Supreme Court and also this Court, in matters of transfer of matrimonial proceedings, the paramount consideration is the convenience of the wife. Here particularly, the respondent does not even refer to his convenience, but he seeks convenience of his power of attorney agent to be taken note of. Unfortunately the law does not provide any such concessions to be shown to



the power agent who represents a spouse before the Family Court, in matrimonial proceedings. Be that as it may, I find force in the submissions of the learned counsel for the petitioner that the petitioner cannot travel all the way from Thoothukudi to attend the Family Court proceedings at Chennai and she would have to stay over night for attending even one hearing at Family Court, Chennai, without assistance and none to take care of the school going children as well.

8. In view of the above, I am inclined to transfer the HMOP proceedings from the III Additional Family Court, Chennai to the Family Court, Thoothukudi. However, considering that the respondent / husband resides abroad, which is not disputed by the petitioner and the fact that he is represented by his aged father, the power agent or the respondent are entitled to appear, taking advantage of the video conferencing facility which is available before the Family Court, Thoothukudi. It is of course made clear that for chief and cross examination of the respondent/husband, he would have to necessarily make himself available personally before the Family Court, Thoothukudi, unless and otherwise both parties agree, otherwise and it would also be possible for the Court.



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9. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2025

vum

Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation : Yes / No

To

1. The III Additional Family Court at Chennai.
2. The Family Court, Thoothukudi.



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P.B. BALAJI,J.

vum

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