



Tr.C.M.P.No.519 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.10.2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**TR CMP No.519 of 2025
and C.M.P.No.12949 of 2025**

Mullai Arasi

...Petitioner

VS

Prasannakumar

...Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw H.M.O.P.No.115 of 2025 on the file of the Family Court, Sivagangai, Sivagangai District and transfer the same to the file of the Sub Court, Tirupattur District.

For Petitioner(s): Mrs.Mumtaj Surya
For Respondent(s): No Appearance

ORDER

This petition has been filed to withdraw H.M.O.P.No.115 of 2025 on the file of the Family Court, Sivagangai, and transfer the same to the file of the Sub Court, Tirupattur District.



Tr.C.M.P.No.519 of 2025

WEB COPY

2. Heard Ms.Mumtaj Surya, learned counsel for the petitioner.

3. The learned counsel appearing for the petitioner would submit that the respondent has not chosen to enter appearance before this Court despite service of notice.

4. It is seen that service of notice has been completed on the respondent and the name of the respondent is also printed in the cause list today. The respondent was called absent and set *ex parte*.

5. The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 08.09.2019 as per Hindu rites and customs at Sri Thiruvengadam Udyana Temple, Ariyakudi, Sivagangai District. No child was born out of the wedlock. The petitioner/wife filed a petition for dissolution of marriage before the Principal Subordinate Court, Tirupattur in H.M.O.P.No.62 of 2025. The respondent/husband filed a



Tr.C.M.P.No.519 of 2025

petition for restitution of conjugal rights before the Family Court, Sivagangai District in H.M.O.P.No.115 of 2025. The petitioner/wife is residing at Tirupattur Town and District and the distance between Tirupattur and Sivagangai is about 350 kilometers. As there is no proper transport facility from Tirupattur, she finds it very difficult to attend the hearings before the Family Court, Sivagangai. Hence, she has filed this transfer petition.

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

7. 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:-



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Tr.C.M.P.No.519 of 2025

"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. (emphasis supplied)

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise 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".

8. 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:-



WEB COPY



Tr.C.M.P.No.519 of 2025

"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."

9. Considering the proposition laid down in the judgment of the Hon'ble Supreme Court in *N.C.V.Aishwarya* case cited *supra* and also considering 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, there can be no impediment for allowing this petition as prayed for.



Tr.C.M.P.No.519 of 2025

10. Accordingly, this transfer civil miscellaneous petition is allowed. The case in H.M.O.P.No.115 of 2025 is hereby withdrawn from the file of the Family Court, Sivagangai and transferred to the file of the Subordinate Court, Tirupattur. No costs. Connected C.M.P. is closed.

09.10.2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes;

Neutral Citation:Yes/No

To

1.The Family Court, Sivagangai

2.The Subordinate Court,
Tirupattur.



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Tr.C.M.P.No.519 of 2025

M.JOTHIRAMAN J.

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Tr.C.M.P.No.519 of 2025

09.10.2025