



Tr.C.M.P.Nos.741 & 742 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.Nos.741 & 742 of 2024
and C.M.P.Nos.16266 & 16271 of 2024

P.Divya

.. Petitioner
(in both cases)

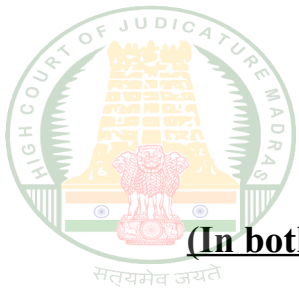
Vs.

Dr.Anand Elumalai

.. Respondent
(in both cases)

Prayer in Tr.C.M.P.No.741 of 2024: This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, praying to withdraw and transfer the above H.M.O.P.No.194 of 2021 pending before the Subordinate Court at Ponneri to Family Court, Chennai.

Prayer in Tr.C.M.P.No.742 of 2024: This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, praying to withdraw and transfer the above H.M.O.P.No.273 of 2022 pending before the Subordinate Court at Ponneri to Family Court, Chennai.



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(In both cases):

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For Petitioner : Mr.J.Ravi Shankar

For Respondent : Mr.C.K.M.Appaji

COMMON ORDER

Both the cases at the instance of the wife. She seeks withdrawal of H.M.O.P.Nos.194 of 2021 & 273 of 2022 from the file of the Sub Court, Ponneri and transfer the same to the file of the Family Court, Chennai.

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

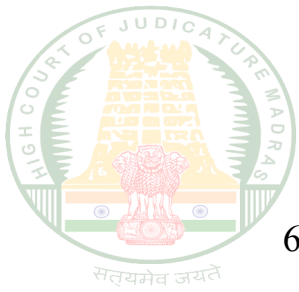
3.The petitioner married the respondent on 22.04.2019. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The petitioner / wife initiated proceedings in H.M.O.P.No.194 of 2021 for dissolution of the marriage solemnized between the petitioner and the respondent on 22.04.2019 before the Sub Court, Ponneri. The respondent / husband initiated proceedings in H.M.O.P.No.273 of 2022 for restitution of conjugal rights before the Sub Court, Ponneri. Pleading that the wife is residing in Anakaputhur, Chennai and unable to travel from Anakaputhur to Ponneri, she has moved these transfer petitions.



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WEB COPY 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 Anakaputhur and Ponneri 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.

5. Accordingly, H.M.O.P.Nos.194 of 2021 & 273 of 2022 are withdrawn from the file of the Sub Court, Ponneri, and transferred to the file of the Family Court, Chennai. The learned Judge, Family Court at Chennai, on transfer of the proceedings, shall re-number the same and try both the proceedings together.



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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, both the Transfer Petitions are ordered.

Consequently, connected miscellaneous petitions are closed. No costs.

31.01.2025

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

1.The Subordinate Judge,
Sub Court, Ponneri.

2.The Judge,
Family Court, Chennai.

V.LAKSHMINARAYANAN, J.



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