



Tr CMP.No.781 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr CMP.No.781 of 2024 &
CMP.No.17076 of 2024

Shanmugapriya : Petitioner

versus

Gokulan : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw the HMOP.No.39 of 2024 on the file of the Principal Sub Court, Palani and transfer the same to the file of the Family Court, Namakkal.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : No appearance

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of HMOP.No.39 of 2024 from the file of the Principal Sub Court, Palani and transfer the same to the file of the Family Court,



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Namakkal.

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2. I heard Mr.W.Camyles Gandhi for the transfer petitioner. I have gone through the affidavit.

3. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel. Since the service has been completed, I took up the transfer petition for disposal.

4. The petitioner married the respondent on 30.03.2020. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.39 of 2024 for divorce before the learned Principal Subordinate Judge at Palani. Pleading that she is residing in Namakkal and unable to travel from Palani to Namakkal, the wife has moved this transfer petition.



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5. 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 Palani and Namakkal 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.

6. Accordingly, H.M.O.P.No.39 of 2024 is withdrawn from the file of the learned Principal Subordinate Judge at Palani and is transferred to the file of the learned Family Judge at Namakkal.

7. The learned Family Judge, Namakkal 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



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however present himself before the Court when the Trial Court passes a specific order for his appearance or when his presence is indispensable.

8. With the above observations, the Transfer Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

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Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation : Yes/No

To

- 1.The Principal Subordinate Judge, Principal Sub Court, Palani
- 2.The Family Judge, Family Court, Namakkal



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V.LAKSHMINARAYANAN, J.

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