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Tr.C.M.P.No.762 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.762 of 2024
& C.M.P.No.16608 of 2024

R.Sakthi

.. Petitioner

Vs

B.Sanjay

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case in H.M.O.P.No.116 of 2023 pending on the file of the learned Family Court, Mannargudi, Thiruvarur District and transfer the same to the file of the learned Sub Court, Nagapattinam to be tried along with HMOP No.55 of 2024.

For Petitioner : Mr.R.Muruga Bharathi
For Respondent : Mr.Swami Subramanian

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.116 of 2023 from the file of the learned Family Court, Mannargudi, Thiruvarur District and transfer the same to the file of the learned Sub Court, Nagapattinam.

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



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3.The petitioner married the respondent on 14.02.2022. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.116 of 2023 before the learned Family Court, Mannargudi, Thiruvarur District for divorce. The petitioner/wife filed H.M.O.P.No.55 of 2024 seeking for restitution of conjugal rights before the Subordinate Judge, Nagapattinam. Pleading that the wife is a permanent resident of Nagapattinam and unable to travel from Nagapattinam to Tiruvarur for the hearing, she has moved this transfer petition.

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. Hence, I am inclined to accept the transfer.

5.Accordingly, H.M.O.P.No.116 of 2023 is withdrawn from the file of the learned Family Court, Mannargudi, Tiruvarur District and transferred to the file of the learned Sub Court, Nagapattinam. The learned Subordinate



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Judge at Nagapattinam, on transfer of the proceedings, shall re-number the same and try it along with HMOP No.55 of 2024, which is said to be pending on his file.

6. The Transfer Civil Miscellaneous Petition is ordered on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
KST

To

- 1.The Family Court, Mannargudi, Thiruvarur District.
- 2.The Sub Court, Nagapattinam.



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V. LAKSHMINARAYANAN,J.

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