



WEB COPY

TR CMP No. 761 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

TR CMP No. 761 of 2023

and

CMP.No.18559 of 2023

E. Sathya

Petitioner(s)

Vs

S. Senthilkumar

Respondent(s)

PRAYERL: This Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC to withdraw the HMOP No.10/2023 on the file of Learned Sub Court at Mettupalayam and transfer the same to Learned Family Court Judge at Erode.

For Petitioner(s): M/s.B.Mohan

For Respondent(s): NA

ORDER

This petition has been filed to withdraw the HMOP. No.10 of 2023 from the file of the Sub Court, Mettupalayam and to transfer the same to Family



Court, Erode.

TR CMP No. 761 of 2023



WEB COPY

2.Heard Mr.B.Mohan, learned counsel for the petitioner.

3.The learned counsel for the petitioner would submit that the respondent has not chosen to enter appearance despite service of notice and paper publication was also effected to that effect and the name of the respondent is also printed in the cause list, however, there is no representation on behalf of the respondent and therefore, set *ex-parte*.

4. The leaned counsel for the petitioner submits that the petitioner has filed a petition in HMOP. No.10 of 2023 seeking for divorce which is pending on the file of the Sub Court, Mettupalayam and requests that the case be transferred to the file of the Family Court, Erode, as it would be convenient for both the parties. It is further submitted that this transfer would not cause any prejudice to the respondent, and therefore, the transfer request made by the



petitioner/wife may be allowed.

WEB COPY

5. I have gone through the affidavit filed in support of the transfer petition as well. I find merit on the submission made by the learned counsel for the petitioner.

6. 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:-

"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



WEB COPY



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”.

7. 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:-

"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."

8. In light of the the proposition laid down in the judgment of the Hon'ble Supreme Court in ***N.C.V.Aishwarya*** case cited *supra* and also in view of 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.



WEB COPY

9. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in HMOP. No.10 of 2023 is hereby withdrawn from the file of the Sub Court, Mettupalayam and transferred to the file of the Family Court, Erode. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

03-09-2025

Gbi

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1.The Sub Court, Mettupalayam.

2. The Family Court, Erode.



WEB COPY

TR CMP No. 761 of 2023



M.JOTHIRAMAN, J.

gbi

TR CMP No. 761 of 2023

03-09-2025