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Tr.CMP.No.834 of 2024 and C.M.P.No.18488 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.834 of 2024

and

C.M.P.No.18488 of 2024

S.Chella

... Petitioner

Versus

K.Viswanathan

... Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw H.M.O.P.No.82 of 2018 from the file of Family Court, Salem and transfer the same to the file of Sub-Court, Harur.

For Petitioner : Mr.J.Pradeep

For Respondent : No appearance

ORDER

The petitioner / wife has come up with the above transfer petition, seeking transfer of H.M.O.P.No.82 of 2018 from the file of Family Court, Salem to the file of Sub-Court, Harur.



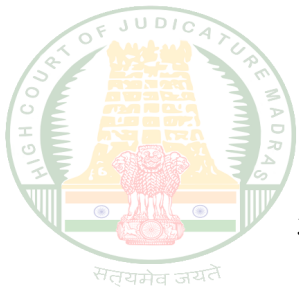
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2. Despite service of notice in the above transfer petition, the respondent has neither chosen to appear in person nor through counsel. The name of the respondent is also printed in the cause list. Name of the respondent was called out, but there is no response. Hence, he is set *ex parte*. I have proceeded to hear the learned counsel for the petitioner. I have also gone through the affidavit filed in support of the request for transfer.

3. The learned counsel appearing for the petitioner would submit that the respondent husband has filed a petition for dissolution of marriage in H.M.O.P.No.82 of 2018 on the file of Family Court, Salem and the same is pending.

4. The petitioner states that she is living with her parents at Harur, Dhamapuri District and the distance between her residence and the Family Court, Salem is more than 150 kilometers and hence, it would be extremely difficult for her to attend each and every hearing at Family Court, Salem.

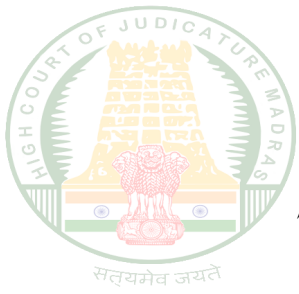


5. I am satisfied that the petitioner has made out a good ground for transferring H.M.O.P.No.82 of 2018 from the file of Family Court, Salem to the file of Sub-Court, Harur.

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 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".



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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. 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.

9. Accordingly, this Transfer Civil Miscellaneous Petition is allowed



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and the case in H.M.O.P.No.82 of 2018 is withdrawn from the file of Family Court, Salem and transferred to the file of the Sub-Court, Harur. Considering the facts and circumstances of the case, there shall be no orders as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.10.2025

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No
gpa

To

1. The Family Court, Salem
2. The Sub-Court, Harur



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M. JOTHIRAMAN, J.

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