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Tr.C.M.P.No.670 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**TR CMP No.670 of 2025
and CMP No.21652 of 2025**

R.Amutha

...Petitioner

Vs

L.Venkateswaran

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw H.M.O.P.No.151 of 2023 pending on the file of the Principal Subordinate Judge, Lalgudi and to transfer the same to the file of the Sub Court, Poonamallee.

For Petitioner(s): Mr.R.Vijayakumar
For Respondent(s): Mr.K.Kannan

ORDER

This petition has been filed to withdraw H.M.O.P.No.151 of 2023 pending on the file of the Principal Subordinate Judge, Lalgudi and to transfer the same to the file of the Sub Court, Poonamallee.



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2. The learned counsel appearing for the petitioner/wife would submit that the respondent/husband has filed H.M.O.P.No.151 of 2023 on the file of the Subordinate Court, Lalgudi seeking dissolution of marriage solemnized on 23.08.2009. At the time of filing of the said petition, the petitioner was residing at RKG Nagar, Thurayur Main Road, Mannachanallur, Trichirapalli District. Subsequently, the petitioner relocated to Rajaram Street, Gandhi Nagar, Avadi, Chennai due to personal and family circumstances for better access to educational and medical facilities. The learned counsel would submit that one female child was born out of the wedlock. Being a woman of limited means, it is highly inconvenient for her both financially and physically to travel approximately 320 kms from Avadi to Lalgudi to attend the Court hearings.

3. Per contra, learned counsel appearing for the respondent-husband would submit the child is presently in the care and custody of the respondent-husband. In the divorce proceedings, a proof affidavit has been filed and the case is now ripe for trial. If the petition is



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allowed at this stage, it would cause serious prejudice to the respondent. However, if this Court deems it appropriate to transfer the case to the Subordinate Court, Poonamallee, it is prayed that a direction may be issued to the Court below to dispose of the H.M.O.P. as expeditiously as possible.

4. I have gone through the affidavit filed in support this petition and I find merit in the submissions made by the learned counsel for the petitioner.

5. 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



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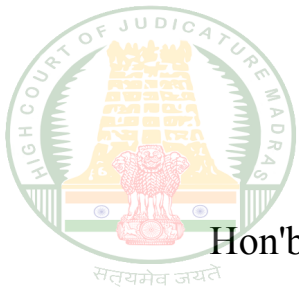
parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the 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”.

6. 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."

7. In light of the proposition laid down in the judgment of the



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Hon'ble Supreme Court in *N.C.V.Aishwarya* case cited *supra* and also 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.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.151 of 2023 is hereby withdrawn from the file of the Principal Subordinate Court, Lalgudi and transferred to the file of the Subordinate Court, Poonamallee. The learned Subordinate Judge, Poonamallee is requested to dispose of the main H.M.O.P as expeditiously as possible. The personal appearance of the respondent-husband is dispensed with for the present. However, as and when required by the Court below, the respondent shall appear in person. No costs. Connected C.M.P. is closed.

09.10.2025

Srn
Index:Yes/No



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Speaking/Non-speaking order

Internet: Yes;

Neutral Citation: Yes/No

To

1.The Principal Subordinate Court,
Lalgudi

2.The Subordinate Court,
Poonamallee.

M.JOTHIRAMAN

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