



Tr CMP.No.793 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr CMP.No.793 of 2024 &
CMP.No.17446 of 2024

P.Deva Kiruba : Petitioner

versus

A.Sarathkumar : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw and transfer the Matrimonial O.P.No.58 of 2024 before the Family Court, Udhagamandalam, the Nilgiris to Additional District Court, Gobichettipalayam.

For petitioner : Mr.S.P.Yuaraj

For Respondent : No appearance

ORDER

This transfer petition is at the instance of the wife. She seeks



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withdrawal of O.P.No.58 of 2024 on the file of the Family Court, Udhagamandalam, the Nilgiris and transfer the same to the file of the Additional District Court, Gobichettipalayam.

2. I heard Mr.S.P.Yuaraj for the 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 13.03.2024. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in OP.No.58 of 2022 for restitution of conjugal rights before the learned Family Judge at Udhagamandalam. Pleading that she is residing in Erode and unable to travel from Erode to Udhagamandalam, the wife has moved this transfer



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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 Erode and Udhagamandalam is considerable, I am inclined to accept the transfer.

6. Accordingly, OP.No.58 of 2024 is withdrawn from the file of the learned Family Judge at Udhagamandalam, The Nilgiris and transferred to the file of the learned Additional District Judge at Gobichettipalayam.



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7. The learned Additional District Judge, Gobichettipalayam 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 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



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To

- 1.The Family Court, Udhagamandalam, the Nilgiris
- 2.The Additional District Court, Gobichettipalayam.



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V.LAKSHMINARAYANAN, J.

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