



Tr CMP.No.822 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.822 of 2024 &
CMP.No.18236 of 2024

C.Sreeja : Petitioner

versus

K.V.Hariharan : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw HMOP.No.223 of 2024 pending on the file of the II Additional Subordinate Judge's Court at Coimbatore and transfer the same to the file of the Family Court, The Nilgiris @ Udhagamandalam.

For petitioner : Mr.Thanga Vadhana Balakrishnan

For Respondent : No appearance



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ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.223 of 2024 from the file of the II Additional Sub Court, Coimbatore and transfer the same to the file of the Family Court, The Nilgiris @ Udhagamandalam.

2. I heard Mr.Thanga Vadhana Balakrishnan for the civil revision 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 13.12.2018. From the wedlock, they were blessed with two children. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in DVC.No.3 of 2024 before the Judicial Magistrate at Conoor.



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The respondent/husband initiated proceedings in H.M.O.P.No.223 of 2024 for restitution before the learned II Additional Subordinate Judge at Coimbatore. Pleading that she is residing in Udhagamandalam and unable to travel from Udhagamandalam to Coimbatore, the wife has moved this transfer petition.

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 Udhagamandalam and Coimbatore is considerable and since it will be difficult for the wife to leave the children behind and travel to attend the Court, I am inclined to accept the transfer.

6. Accordingly, H.M.O.P.No.223 of 2024 is withdrawn from the file of



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the II Additional Sub Court Judge at Coimbatore and is transferred to the file of the Family Court, Udhagamandalam

7. The Family Court 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 II Additional Subordinate Judge, II Additional Sub Court, Coimbatore
- 2.The Family Judge, Family Court at Udhagamandalam.



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V.LAKSHMINARAYANAN, J.
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