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TR CMP No. 347 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-09-2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

TR CMP No. 347 of 2024

and

CMP No.7157 of 2024

J. Ammu @ Helan

D/o. John No. 237-56/1, M.P.M.Street,
Vyasarpadi, Chennai 39

Petitioner(s)

Vs

S. Sundaralingam
S/o.Subramani, Muthumariyammal
Koil Street, Parukkal (post)
Achirapakkam, Cheyyur,
Kancheepuram 603301

Respondent(s)

PRAYER

This Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, seeking to withdraw and transfer the pending H.M.O.P.No. 55/2018 on the file of Honble Sub Court at Maduranthakam, and to transfer the same to Honble Family Court, Chennai.



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For Petitioner(s): Mr.S.D. Mohammed
Musthaqem Raja

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw and transfer the H.M.O.P.No. 55/2018 pending on the file of Sub Court at Maduranthakam, and to transfer the same to file of the Family Court, Chennai.

2. Heard Mr.S.D. Mohammed Musthaqem Raja, the learned counsel for the petitioner and perused the materials available on record.

3. The learned counsel appearing for the petitioner would submit that the respondent has not chosen to enter appearance before this Court despite service of notice.

4. It is seen that service of notice has been completed on the respondent and the name of the respondent is also printed in the cause list today.

The respondent was called absent and set *ex parte*.



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5. The learned counsel appearing for the petitioner would submit the respondent/husband filed a petition for divorce before the Subordinate Court, Maduranthakam and the same is pending in HMOP No.55 of 2018. The petitioner is residing in Chennai along with her aged parents and she is financially struggling a lot. In such circumstances, it is very difficult for the petitioner to travel from Chennai to Maduranthakam for attending each and every hearing of the case. Therefore, the case in HMOP No.55 of 2018 may be withdrawn from the file of the Subordinate Court, Maduranthakam and transferred the same to the file of the Family Court, Chennai.

6. 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.

7. 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:-



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"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".

8. 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:-



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"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."

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



10. Accordingly, this transfer civil miscellaneous petition is allowed. The case in H.M.O.P.No.55 of 2018 is hereby withdrawn from the file of the Subordinate Court, Maduranthakam and transferred to the file of the Family Court, Chennai. No costs. Connected C.M.P. is closed.

15-09-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Subordinate Judge,
Sub Court, Maduranthakam.

2. The Judge, Family Court, Chennai.



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M.JOTHIRAMAN J.

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