



Tr CMP.No.865 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM

THE HON'BLE MR.JUSTICE **V.LAKSHMINARAYANAN**

Tr CMP.No.865 of 2024 &
CMP.No.19106 of 2024

Sweetha : Petitioner

versus

Balachandhar : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw the HMOP.No.40 of 2024 on the file of the Principal Sub Court at Tindivanam and transfer the same to the Family Court, Tiruvannamalai.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.S.Praveen Kumar

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.40 of 2024 from the file of the Principal Sub Court at Tindivanam and transfer the same to the file of the Family Court in Thiruvannamalai.



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2. I heard both sides. I have gone through the affidavit.

3. The petitioner married the respondent on 30.08.2018. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in FCOP.No.132 of 2024 for restitution of conjugal rights before the Family Court at Thiruvannamalai. The respondent/husband initiated proceedings in H.M.O.P.No.40 of 2024 for divorce before the learned Principal Subordinate Judge at Tindivanam. Pleading that she is residing in Thiruvannamalai and unable to travel from Thiruvannamalai to Tindivanam, the wife has moved this transfer petition.

4. 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



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between Thiruvannamalai and Tindivanam is considerable and since it will be difficult for the wife to leave the child behind and travel to attend the Court, I am inclined to accept the transfer.

5. Accordingly, H.M.O.P.No.40 of 2024 is withdrawn from the file of the Principal Sub Court at Tindivanam and is transferred to the file of the Family Court at Thiruvannamalai. The learned Family Judge at Thiruvannamalai, on transfer of the proceedings, shall re-number the same and try it along with FCOP.No.132 of 2024, which is said to be pending on his file.

6. 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.

7. With the above observations, the Transfer Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation : Yes/No



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To

- 1.The Principal Subordinate Judge, Principal Sub Court, Tindivanam
- 2.The Family Judge, Family Court, Tiruvannamalai

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