



Tr CMP.No.837 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.837 of 2024 &
CMP.No.18530 of 2024

Muthulakshmi : Petitioner

versus

Sundareshan : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw and transfer HMOP.No.482 of 2023 on the file of the Subordinate Judge and to try along with FCOP.No.332 of 2023 pending on the file of the Family Court, Erode.

For Petitioner : Ms.S.Kanimozhi

For Respondent : Mr.T.S.Vijaya Raghavan



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ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of HMOP.No.482 of 2023 from the file of the Sub Court, Alandur and transfer the same to the file of the Family Court at Erode, to be tried along with FCOP.No.332 of 2023.

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

3. The petitioner married the respondent on 09.06.2022. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in FCOP.No.332 of 2023 for restitution of conjugal rights before the learned Family Judge at Erode. The respondent/husband initiated proceedings in HMOP.No.482 of 2023 for divorce before the learned Subordinate Judge at Alandur. Pleading that she is residing in Erode and unable to travel from Erode to Alandur, the wife has moved this transfer petition.

4.The Parliament, while amending the Hindu Marriage Act, has



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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 Alandur is considerable, I am inclined to accept the transfer.

5. Accordingly, HMOP.No.482 of 2023 is withdrawn from the file of the Sub Court at Alandur and is transferred to the file of the Family Court, Erode. The learned Family Judge at Erode, on transfer of the proceedings, shall re-number the same and try it along with FCOP.No.332 of 2023, 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



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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.

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 Judge, Family Court, Erode

2.The Subordinate Judge, Sub Court, Alandur



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V.LAKSHMINARAYANAN, J.
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