



Tr.C.M.P.No.692 of 2025
and C.M.P.No.16360 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.692 of 2025

and

C.M.P.No.16360 of 2025

V.Nivetha,
W/o.S.Venkateswaran,
Residing at 3/215 B,
Sekadi Metu Street,
Paadalur,
Alathur Circle,
Perambalur District

... Petitioner

Vs

S.Venkateswaran,
S/o.Selvasekharan,
D.No.1/228, Nadu Theru,
Kilichanatham,
Thotiyam Circle,
Trichy District.

... Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw HMOP No.76 of 2024 pending before the Subordinate Court, Musiri and transfer the same and tried along with M.C.No.12 of 2025 to the file of the Family Court, Perambalur,



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For Petitioner : Mr.K.Sannjay
For Respondent : No appearance

ORDER

This petition has been filed to withdraw HMOP No.76 of 2024 from the file of the Subordinate Court, Musiri and to transfer the same to the file of the the Family Court, Perambalur, to try the same along with M.C.No.12 of 2025.

2. Heard the learned counsel appearing for the petitioner.

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 that the petitioner got married to the respondent on 30.10.2020 at Thotiyam District Thirunarayanapuram Sri Veda Narayana Perumal Temple as per Hindu rituals. The respondent / husband filed H.M.O.P.No.76 of 2024 before the Subordinate Court, Musiri, seeking for restitution of conjugal rights making allegations and averments against the petitioner. The petitioner / wife has filed a petition in M.C.No.12 of 2025 on the file of the Family Court, Perambalur, seeking for maintenance for the petitioner and her daughter. The learned counsel further would submit that the distance between Perambalur to Musiri is more than 160 kms up and down and the petitioner had to travel along with her parents with female child for every hearing and the petitioner had to travel more than three hours. Moreover, the petitioner have to spent more than Rs.2,000/- for every hearing to attend the case.

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.



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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:-

"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".



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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:-

"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.



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10. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.76 of 2024 is hereby withdrawn from the file of the Subordinate Court, Musiri and transferred to the file of the Family Court, Perambalur, to be tried along with M.C.No.12 of 2025 on the file of the Family Court, Perambalur. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

09.10.2025

mtl

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

1. The Subordinate Court, Musiri.
2. The Family Court, Perambalur.



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M. JOTHIRAMAN, J.

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