



WEB COPY



Tr CMP.No.856 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.856 of 2024 &
CMP.No.18882 of 2024

Sumitha : Petitioner

versus

Jagadeeshwaran : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw the case in HMOP.No.52 of 2024 before the Sub Court, Perundurai and the same may be transferred to the Family Court, Dharmapuri.

For Petitioner : Mr.P.M.Jayachandran

For Respondent : Mr.M.Guruprasad

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.52 of 2024 from the file of the Sub Court at Perundurai and transfer the same to the file of the Family Court in



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Dharmapuri.

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

3. The petitioner married the respondent on 07.06.2018. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.52 of 2024 for divorce before the learned Subordinate Judge at Perundurai. Pleading that the wife is residing in Dharmapuri and unable to travel from Dharmapuri to Perundurai, she 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 between Dharmapuri and Perundurai is considerable and since it will be



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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 Accordingly, H.M.O.P.No.52 of 2024 is withdrawn from the file of the Sub Court at Perundurai and transferred to the file of the Family Court at Dharmapuri.

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.

24.01.2025

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Index : Yes/No

Speaking Order/Non speaking order



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Neutral Citation : Yes/No

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V. LAKSHMINARAYANAN, J.
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To

1.The Subordinate Judge, Sub Court, Perundurai

2.The Family Judge, Family Court, Dharmapuri

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24.01.2025