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Tr CMP.No.847 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

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

Tr CMP.No.847 of 2024 &
CMP.No.18765 of 2024

Valliammai Murugesan : Petitioner

versus

Kiran Mohan : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw HMOP.No.115 of 2024 on the file of the Sub Court, Alandur and transfer the same to the II Additional Family Court at Chennai.

For Petitioner : Ms.D.Prasanna,
for M/s.P.V.S.Giridhar Associates

For Respondent : Mr.A.P.Sathya Murthy

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.115 of 2024 from the file of the Sub Court, Alandur and transfer the same to the file of the II Additional Family Court, Chennai, to be tried along with H.M.O.P.No.4375 of 2023.



Tr CMP.No.847 of 2024

WEB COPY

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

3. The petitioner married the respondent on 02.05.2010. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in HMOP.No.4375 of 2023 for divorce on the ground of cruelty before the II Additional Family Court at Chennai. The respondent/husband initiated proceedings in H.M.O.P.No.115 of 2024 for restitution of conjugal rights before the learned Subordinate Judge at Alandur. Pleading that already the divorce petition initiated by her in HMOP.No.4375 of 2023 is pending before the learned II Additional Family Judge, Chennai, the wife has moved this transfer petition.

4. 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. Since HMOP.No.4375 of 2023 is already pending before the II Additional Family Judge, Chennai, in the interest of justice both the cases are required to be tried together.



Tr CMP.No.847 of 2024

WEB COPY

5. Accordingly, H.M.O.P.No.115 of 2024 is withdrawn from the file of the Sub Court at Alandur and is transferred to the file of the II Additional Family Court at Chennai. The learned II Additional Family Judge, Chennai, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.4375 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 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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Tr CMP.No.847 of 2024

V.LAKSHMINARAYANAN, J.
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To

1.The II Additional Family Judge, II Additional Family Court, Chennai

2.The Subordinate Judge, Sub Court, Alandur

Tr CMP.No.847 of 2024

24.01.2025