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Tr.C.M.P.No.732 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.C.M.P.No.732 of 2025

S.Padmapriya

... Petitioner

VS

S.Harikrishnan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw M.C. No.293 of 2024 from the file of II Additional Family Court, Chennai and transfer the same to the file of VII Additional Family Court, Chennai to be tried along with O.P. No.2625 of 2023 pending on the file of VII Additional Family Court.

For Petitioner: Mr.S.Namasivayam

For Respondent: Ms.P.R.Umamaheshwari

ORDER

This petition has been filed to withdraw M.C. No.293 of 2024 from the file of the II Additional Family Court, Chennai and to transfer the same to the file of the VII Additional Family Court, Chennai to be tried along with O.P. No.2625 of 2023 pending on the file of VII Additional Family Court, Chennai.



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2.Heard the learned counsel on both sides.

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3.The learned counsel appearing for the petitioner would submit that the petitioner/wife filed a petition for divorce before the VII Additional Family Court, Chennai and the same is pending in H.M.O.P. No.2625 of 2023. Since the petitioner/wife has no source of income and she has to take care of her son, she had filed a maintenance case against the respondent/ husband in M.C.No.293 of 2024 of 2025 seeking maintenance before the II Additional Family Court, Chennai. Therefore, the case in M.C. No.293 of 2024 may be withdrawn from the file of the II Additional Family Court and transferred to the file of the VII Additional Family Court, Chennai, which may be tried along with H.M.O.P. No.2625 of 2023 pending on the file of the VII Additional Family Court.

4.Learned counsel appearing for the respondent/husband would submit that the respondent/husband has no objection in allowing this petition.



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5.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.

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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6.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."

7.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, I am inclined to allow this petition.

8.In view of the above and also considering the consent given by the other side, there can be no impediment for allowing this petition as prayed for.



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9. Accordingly, this transfer civil miscellaneous petition is allowed.

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The case in M.C. No.293 of 2024 is hereby withdrawn from the file of the II Additional Family Court, Chennai and transferred to the file of the VII Additional Family Court, Chennai and the same to be tried along with H.M.O.P. No.2625 of 2023 pending on the file of VII Additional Family Court, Chennai. The learned Judge shall expedite the disposal of the case in M.C. No.293 of 2024 along with H.M.O.P. No.2625 of 2023. No costs.

25-09-2025

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

1. The II Additional Family Court, Chennai.

2. The VII Additional Family Court, Chennai.



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