



Tr CMP.No.871 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.871 of 2024 &
CMP.No.19209 of 2024

R.Vinitha : Petitioner

versus

E.Rajesh Kumar : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw HMOP.No.64 of 2024 pending before Subordinate Court, Alandur and to transfer the same to the file of the Family Court, Perambalur and to try along with HMOP.No.112 of 2024 and MC.No.24 of 2024.

For Petitioner : Mr.T.Seenivasan

For Respondent : Mr.R.Dhanasekar

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.64 of 2024 from the file of the Sub Court at



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Alandur and transfer the same to the file of the Family Court in Perambalur, to be tried along with HMOP.No.112 of 2024 and MC.No.24 of 2024.

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

3. The petitioner married the respondent on 07.02.2022. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in HMOP.No.112 of 2024 for restitution of conjugal rights and M.C.No.24 of 2024 for maintenance before the learned Family Judge at Perambalur. The respondent/husband initiated proceedings in H.M.O.P.No.64 of 2024 for divorce before the learned Subordinate Judge at Alandur. Pleading that she is residing in Perambalur and unable to travel from Perambalur to Alandur, the wife has moved this transfer petition.

4. Mr.R.Dhanasekar, the counsel representing the husband represented that the husband has no objection for transfer of the proceedings.

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

6. Accordingly, H.M.O.P.No.64 of 2024 is withdrawn from the file of the Sub Court at Alandur and is transferred to the file of the Family Court at Perambalur. The learned Family Judge at Perambalur, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.112 of 2024 and M.C.No.24 of 2024, which are said to be pending on his file.

7. 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.

8. 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 Subordinate Judge, Sub Court, Alandur
- 2.The Family Judge, Family Court, Perambalur



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V.LAKSHMINARAYANAN, J.
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