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Tr.C.M.P.No.888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.888 of 2024

&

C.M.P.No.19433 of 2024

Ilakiya

.. Petitioner

Vs

Aravind @ Aravindasmy

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case in H.M.O.P.No.54 of 2024 from the file of the learned Principal Subordinate Court, Chidambaram and transfer the same to the file of the Principal Subordinate Court, Mayiladuthurai.

For Petitioner : Mr.K.M.Vijayan Associates

For Respondent : No appearance

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.54 of 2024 from the file of the learned Principal Subordinate Court, Chidambaram and transfer the same to the file of the Principal Subordinate Court, Mayiladuthurai.



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2. I heard the learned counsel for the petitioner. I have gone through the affidavit.

3. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel. Since the service has been completed, I took up the transfer petition for disposal.

4. The petitioner married the respondent on 20.11.2022. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in H.M.O.P.No.183 of 2023 for divorce before Principal Sub Court, Mayiladuthurai and DVC No.13 of 2024 before the Chief Judicial Magistrate No.1, Mayiladuthurai. The respondent/husband initiated proceedings in H.M.O.P.No.54 of 2024 for restitution of conjugal rights before the Principal Subordinate Court, Chidambaram. Pleading that as there is threat by the respondent, hence she cannot travel to Chidambaram, she has moved this transfer petition.



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5. 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 petitioner is apprehending threat from the respondent, I am inclined to accept the transfer.

6. Accordingly, HMOP No.54 of 2024 is withdrawn from the file of the Principal Subordinate Court, Chidambaram and transferred to the file of the Principal Subordinate Court, Mayiladuthurai. The learned Judge, Principal Subordinate Court, Mayiladuthurai, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.183 of 2023, which is said to be pending on his file.



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V. LAKSHMINARAYANAN,J.

mrp

7. With the above observations, the Transfer Petition is ordered.

No costs. Consequently, the connected miscellaneous petition is closed.

24.01.2025

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

mrp

To

1.The Principal Subordinate judge,Principal Subordinate Court,
Chidambaram.

2.The Principal Subordinate Judge ,Principal Subordinate Court,
Mayiladuthurai.

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