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Tr.C.M.P.No.898 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.898 of 2024

&

C.M.P.No.19739 of 2024

R. Sowmiya

.. Petitioner

Vs

S. Prem Kumar

.. 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.3 of 2024 from the file of the learned Family Court, Cuddalore and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr. Y. Venkatesan

For Respondent : Mr. R. Thamarai Selvam

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.3 of 2024 from the file of the Family Court, Cuddalore and transfer the same to the file of the Family Court, Chennai.



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

3. The petitioner married the respondent on 30.10.2022. Due to disputes and differences, the parties have separated. The petitioner/husband initiated proceedings in H.M.O.P.No. 3 of 2024 for divorce before Family Court, Cuddalore. Pleading that as there is a threat by the respondent, hence she cannot travel to Cuddalore, 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 petitioner is apprehending threat from the respondent, I am inclined to accept the transfer.



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5. Accordingly, HMOP No.3 of 2024 is withdrawn from the file of the Family Court, Cuddalore and transferred to the file of the Family Court, Chennai. The learned Judge, Family Court, Chennai, on transfer of the proceedings, shall re-number the same and proceed further.

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, 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 Judge, Family Court, Cuddalore.

2. The Judge, Family Court, Chennai.



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V. LAKSHMINARAYANAN,J.

mrp

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