



TR.CMP.No.775 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

TR.CMP.No.775 of 2025

and

C.M.P.No.17948 of 2025

Beena Mercy Eileen

... Petitioner

Versus

S.Griffan

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, praying to withdraw the case in I.D.O.P.No.444 of 2025 pending on the file of the Family Court at Nagercoil, Kanyakumari District and transfer the same to the files of the II Additional Principal Family Court at Chennai by considering the restitution of the conjugal rights in O.P.No.2333 of 2025 on the file of the II Additional Principal Family Court at Chennai.

For Petitioner : Mr.M.Samuel Raja

For Respondent : No appearance



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ORDER

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The petitioner/wife has come forward with an application seeking to transfer I.D.O.P.No.444 of 2025 pending on the file of the Family Court at Nagercoil, Kanyakumari District, to the file of II Additional Principal Family Court, Chennai.

2. The learned counsel appearing for the petitioner/wife would submit that the marriage between the petitioner and respondent was solemnized on 17.01.2024 at CSI All Souls Church at Coimbatore. The petitioner/wife has filed a petition for restitution of conjugal rights in O.P.No.2333 of 2025 which is pending before the II Additional Principal Family Court, Chennai and Domestic Violence Petition in D.V.C.NO.48 of 2025, is also pending on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai. Whereas, the respondent/husband has filed a Petition for seeking divorce in I.D.O.P.No.444 of 2025 on the file of the Family Court at Nagercoil, Kanyakumari District, on the alleged grounds of non-consummation and cruelty. The learned counsel would further submit that in order to avoid the



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conflicting judgments, the I.D.O.P.No.444 of 2025 pending on the file of the Family Court at Nagercoil, Kanyakumari District, to be transferred to the file of II Additional Principal Family Court, Chennai. Further he would submit that the petitioner is residing in Chennai and it is very difficult for the petitioner to travel from Chennai to Nagercoil to attend the Court for each and every hearings.

3. The learned counsel appearing for the respondent has no serious objection in allowing the present petition.

4. I have gone through the affidavit filed in support this petition and I find merit in the submissions made by the learned counsel on either side.

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



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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. (emphasis supplied)

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”.

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."



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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, there can be no impediment for allowing this petition as prayed for.

8. Accordingly, this transfer civil miscellaneous petition is allowed. The case in I.D.O.P.No.444 of 2025 is hereby withdrawn from the file of the Family Court at Nagercoil, Kanyakumari District and transferred to the file of the learned II Additional Principal Family Court, Chennai. Considering the facts there shall be no orders as to costs. Consequently, connected Miscellaneous Petition is closed.

22.10.2025

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No
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M. JOTHIRAMAN, J.
dna

To

- 1.The II Additional Principal Family Court
at Chennai.
- 2.The Family Court at Nagercoil, Kanyakumari District.
- 3.The IX Metropolitan Magistrate Court, Saidapet, Chennai.

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