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Tr.C.M.P.No.938 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.938 of 2024

&

C.M.P.No.20464 of 2024

M.Saranya

...

Petitioner

Vs

S.Kaviyarasan

...

Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to transfer the HMOP No.34 of 2024 on the file of the Hon'ble Principal Sub Court at Tindivanam, Villupuram District to be transferred to Family Court at Chennai.

For Petitioner : Mr.G.Ilamurugu

For Respondent : No appearance

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of HMOP No.34 of 2024 from the file of the Principal Sub Court at Tindivanam, Villupuram District and transfer the same to the file of Family Court at Chennai.



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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 first 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 21.03.2022. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in HMOP.No.34 of 2024 for restitution of conjugal rights before the Principle Sub Court at Thindivanam, Villupuram district. Pleading that the wife is residing in Manali New Town, Chennai and unable to travel from Chennai to Thindivanam, she has moved this transfer petition.

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



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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 Chennai and Thindivanam is considerable and since it will be difficult for the wife to leave the child behind and travel to attend the Court, I am inclined to accept the transfer.

6. Accordingly, HMOP No.34 of 2024 is withdrawn from the file of the Principal Sub Court, Tindivanam, Villupuram District and transferred to the file of the Family Court, Chennai. The Family Court, Chennai, on transfer of the proceedings, shall re-number the same and proceed further.

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 before the Court when the Trial Court passes a specific order for his appearance or when his presence is indispensable.



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V. LAKSHMINARAYANAN,J.

mrp

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

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

Index: Yes/No

24.01.2025

Speaking order/Non-speaking order

Neutral Citation: Yes/No

mrp

To

1.Principal Sub Court at Tindivanam, Villupuram District.

2.The Family Court at Chennai.

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