



Tr.C.M.P.No.886 of 2025
and C.M.P.No.20340 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08-10-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

TR CMP No.886 of 2025
and CMP No.20340 of 2025

V.Iniyaal Sri,
W/o. Kannan,
D.No.4, Arignar Anna Road,
Near G.M.Eye Hospital,
Mettupalayam,
Coimbatore District.

Petitioner(s)

Vs

S.Kannan,
S/o. Selvaraj,
D.No.3/21, Naduveethi,
Thutikkulam, Kalapannayakkanpatti,
Senthamangala, Namakkal District.

Respondent(s)

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw F.C.O.P.No.128 of 2025 from the file of the Family Court, Namakkal and transfer the same to the file of the Sub Court, Mettupalayam.



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For Petitioner(s): Mr.G.Murugan

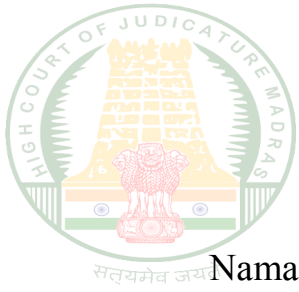
For Respondent(s): Mr.S.Monish Kumar

ORDER

This petition has been filed to withdraw F.C.O.P.No.128 of 2025 from the file of the Family Court, Namakkal and transfer the same to the file of the Sub Court, Mettupalayam.

2. Heard the learned counsel on both sides.

3. The learned counsel appearing for the petitioner would submit that the petitioner got married to the respondent on 21.10.2018 at Senthamangalam, Aishwarya Thirumana Mandapam as per Hindu Customs. The respondent / husband filed F.C.O.P.No.128 of 2025 before the Family Court, Namakkal, seeking for restitution of conjugal rights making allegations and averments against the petitioner. The petitioner /wife has filed a petition in D.V.C.No.5 of 2025 on the file of Judicial Magistrate, Mettupalayam, against the respondent and his family members and the same is pending adjudication. The petitioner would not be able to travel to

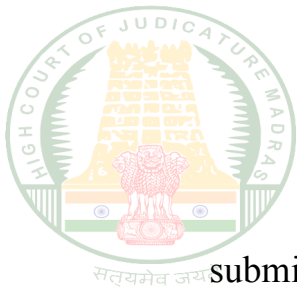


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Namakkal for every hearing and attend the case, since the petitioner needs to travel 150 kms. It would not be safe and convenient for the petitioner, if the case has been transferred to the file of Subordinate Court, Mettupalayam. The learned counsel further would submit that in order to avoid conflicting judgments, D.V.C.No.5 of 2025, which is pending on the file of Judicial Magistrate, Mettupalayam, has been transferred to Subordinate Court, Mettupalayam, it will be convenient for either parties.

4. *Per contra*, the learned counsel appearing for the respondent would submit that the respondent alone is taking care of his aged old parents, since the father of the respondent was affected from spinal injury and mother of the respondent got uterus problem and therefore, the respondent alone is taking care of his aged old parents. Moreover, the respondent alone taking care of the agricultural lands and other farming works. If the case has been transferred from the Family Court, Namakkal to Subordinate Court, Mettupalayam it will cause serious prejudice to the respondent and then the respondent has to travel for more than five hours to reach the Subordinate Court, Mettupalayam. The learned counsel further



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submits that if the case has been transferred to Erode District, it will be convenient for either parties.

5. I have gone through the affidavit filed in support this petition and I find merit in the submissions made by the learned counsel for the petitioner.

6. 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 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



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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”.

7. 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."

8. 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.



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9. The personal appearance of the respondent shall dispensed with for the present as and when required by the Subordinate Court, Mettupalayam, the respondent shall appear.

10. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in F.C.O.P.No.128 of 2025 is hereby withdrawn from the file of the Family Court, Namakkal and transferred to the file of the Subordinate Court, Mettupalayam. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

08.10.2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

M. JOTHIRAMAN J.

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To

1.The Family Court Judge,
Namakkal.

2.The Subordinate Court Judge,
Mettupalayam.

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