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Tr.C.M.P.No.960 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.960 of 2024

&

C.M.P.No.21016 of 2024

M.Madhuri	...	Petitioner
	Vs	
S.Karthikeyan	...	Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to transfer the HMOP No.365 of 2024 on the file of the Subordinate Court, Poonamallee, Tiruvallur District to Family Judge Cuddalore to conduct the trial along with HMOP No.95 of 2024 on the file of the Family Judge at Cuddalore.

For Petitioner	:	Mr.M.Ramalingam
For Respondent	:	Mr.B.Balamurali

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of HMOP No.365 of 2024 on the file of the Subordinate Court, Poonamallee, Tiruvallur District and transfer the same to the Family Judge Cuddalore, to be tried along with HMOP No.95 of 2024.

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



Tr.C.M.P.No.960 of 2024

3. The petitioner married the respondent on 25.01.2021. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in H.M.O.P.No.95 of 2024 for restitution of conjugal rights before the Family Court, Cuddalore. The respondent/husband initiated proceedings in H.M.O.P.No.365 of 2024 for divorce before the Sub Court at Poonamallee. Pleading that the wife is residing in Cuddalore and unable to travel from Cuddalore to Chennai, 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 distance between Cuddalore and Chennai 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.



Tr.C.M.P.No.960 of 2024

5. Accordingly, HMOP No.365 of 2024 is withdrawn from the file of the Subordinate Court, Poonamallee, Tiruvallur District and transferred to the file of the Family Court, Cuddalore. The learned Judge, Family Court, Cuddalore, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.95 of 2024, which is said to be pending on his file.

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.

Index: Yes/No

24.01.2025

Speaking order/Non-speaking order

Neutral Citation: Yes/No

mrp

To

1. Subordinate Court, Poonamallee, Tiruvallur District.

2. The Family Court, Cuddalore.



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V. LAKSHMINARAYANAN,J.
mrp

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