



Tr.C.M.P.No.954 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.954 of 2024

&

C.M.P.Nos.20851 & 20853 of 2024

Sivasankari

...

Petitioner

Vs

Avinaash

...

Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw and transfer the HMOP No.139 of 2023 which is pending before the learned Family Court, Villupuram to the Learned Subordinate Court, Kancheepuram, with a direction to be tried along with the HMOP No.399 of 2023 pending before the Subordinate Court, Kancheepuram.

For Petitioner : Mr.S.Murugan

For Respondent : Mr.N.Suresh

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of HMOP No.139 of 2023 from the file of the Family Court, Villupuram and transfer the same to the file of the Subordinate Court, Kancheepuram, to be tried along with HMOP No.399 of 2023, which is pending before the Subordinate Court, Kancheepuram.



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

3. The petitioner married the respondent on 26.04.2020. 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.139 of 2023 for divorce before the Family Court, Villupuram. The petitioner/wife initiated proceedings in HMOP No.399 of 2023 for restitution of conjugal rights before the Subordinate Court, Kancheepuram. Pleading that the wife is residing in Kancheepuram District and unable to travel from Kancheepuram to Villupuram, 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 Kancheepuram and Villupuram is considerable and since it will be difficult for the wife to leave the child behind and travel to



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attend the Court, I am inclined to accept the transfer.

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5. Accordingly, HMOP No.139 of 2023 is withdrawn from the file of the Family Court, Villupuram and transferred to the file of the Subordinate Court, Kancheepuram. The learned Sub-Judge, Kancheepuram, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.399 of 2023, which is said to be pending on his file.

6. With the above observations, the Transfer Petition is ordered. No costs. Consequently, the connected miscellaneous petitions are closed.

Index: Yes/No

24.01.2025

Speaking order/Non-speaking order

Neutral Citation: Yes/No

mrp

To

1. The Family Court, Villupuram.

2. The Subordinate Court, Kancheepuram.



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V. LAKSHMINARAYANAN,J.
mrp

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