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Tr.C.M.P.No.985 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.No.985 of 2024
and C.M.P.No.21511 of 2024

K.Velvizhi

.. Petitioner

Vs.

V.Manojkumar

.. Respondent

Prayer: This Transfer Civil Miscellaneous Petition filed under Section 24 read with Section 151 of the Code of Civil Procedure, 1908, praying to withdraw and transfer the O.P.No.4104 of 2023 from the file of IV Additional Family Court at Chennai to be tried along with the H.M.O.P.No.409 of 2024 which is already pending on the file of Sub Court at Poonamallee.

For Petitioner : Mr.D.Venkatesan
For Respondent : Mr.K.Shanmugam

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of O.P.No.4104 of 2023 from the file of the IV Additional Family Court at Chennai, and transfer the same to the file of Sub Court at



Poonamallee, to be tried along with the H.M.O.P.No.409 of 2024.

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

3.The petitioner married the respondent on 16.09.2021. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The respondent / husband initiated proceedings in O.P.No.4104 of 2023 to dissolve the marriage solemnized between the petitioner and the respondent on 16.09.2021 before the IV Additional Family Court at Chennai. The petitioner / wife initiated proceedings in H.M.O.P.No.409 of 2024 for restitution of conjugal rights before the Sub Court, Poonamallee. Pleading that the wife is residing in Thiruvallur and unable to travel from Thiruvallur 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



Tr.C.M.P.No.985 of 2024

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 Thiruvallur 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.

5. Accordingly, O.P.No.4104 of 2023 is withdrawn from the file of the IV Additional Family Court, Chennai, and transferred to the file of the Sub Court, Poonamallee. The learned Subordinate Judge at Poonamelle, on transfer of the proceedings, shall re-number the same and try it along with H.M.O.P.No.409 of 2024, which is said to be pending on his file.

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

31.01.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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Tr.C.M.P.No.985 of 2024

V.LAKSHMINARAYANAN, J.

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To

- 1.The IV Additional Judge,
IV Additional Family Court,
Chennai.
- 2.The Subordinate Judge,
Sub Court, Poonamallee.

Tr.C.M.P.No.985 of 2024

31.01.2025