



Tr.C.M.P.No.1022 of 2024

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

3. The petitioner married the respondent on 21.04.2013. From the wedlock, they were blessed with one child. Due to disputes and differences, the parties have separated.

4. The respondent/husband initiated proceedings in H.M.O.P.No.3650 of 2015 for restitution of conjugal rights before the learned I Additional Principal Judge, Family Court, Chennai and obtained an *exparte* order. Utilising that order, the respondent obtained an *exparte* decree of divorce in H.M.O.P.No.2308 of 2017 dated 23.01.2018 before the learned VI Additional Principal Judge, Family Court, Chennai.

5. The *exparte* decree so obtained was sought to be set aside by way of an application in I.A.No.5894 of 2018. By the time the petitioner came to know about the *exparte* decree, 257 days had gone by. Taking advantage of the *exparte* decree, the respondent married an other person. The learned VI Additional Principal Judge at Chennai dismissed the condonation of delay petition on 20.09.2019. Aggrieved by the same, a



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revision was preferred to this Court. The revision was allowed in C.R.P.No.762 of 2021 on 18.06.2021. While allowing the revision, this Court had directed the Family Court at Chennai to issue notice and conclude the proceedings after affording an opportunity of hearing to parties to this transfer.

6. The husband challenged the order passed by this Court before the Supreme Court. The SLP preferred by him in S.L.P.(C).No.11050 of 2021 came to be dismissed by the Supreme Court on 19.07.2024. The Supreme Court observed that the Trial Court should expedite the proceedings and should pass orders, uninfluenced by any observations that were made during the course of the proceedings.

7. Pleading that the petitioner and the child born to the parties in this proceeding have not been maintained, they have presented O.S.No.173 of 2024. The proceeding is said to be pending. Apart from this, the wife has also initiated M.C.No.558 of 2019 on the file of the V Additional Family Court, Chennai. There is another proceeding pending in D.V.C.No.90 of 2023.



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8. The petitioner pleads that the daughter born to the petitioner and the respondent is aged about 10 years. She is a resident of Pammal in the outskirts of Chennai. She pleads that it takes not less than 2 ½ hours to travel from Pammal to Chennai and same amount of time is spent to travel back again. Hence, she has moved this transfer.

9. 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. 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.

10. The additional factor that I have to take note of is that the petitioner's father is suffering from dementia and her mother is suffering from some gynaecological issues. Hence, they are not in a position today to bring up the child who is aged about 10 years. The entire



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responsibility of bringing up the child is on the mother as the father is not living with them. I am aware that Sub Court, Alandur is already flooded with work, so I am inclined to transfer the proceedings to Sub Court, Tambaram.

10. In fine, H.M.O.P.No.2308 of 2017 is withdrawn from the file of the learned VI Additional Principal Judge, Family Court, Chennai and transferred to the file of Sub Court, Tambaram.

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

24.01.2025

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

mrp

Note : Issue order copy on 07.02.2025

To

1.The VI Additional Principal Judge, Family Court, Chennai.

2.The Sub Judge, Sub Court, Tambaram.



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V. LAKSHMINARAYANAN,J.

mrp

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& C.M.P.No.22275 of 2024**

24.01.2025