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Tr.C.M.P.No.1020 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.1020 of 2024

&

C.M.P.No.22248 of 2024

Dr.S.Priyadarshini

...

Petitioner

Vs

Dr.K.Arun Shanmuga Prasath

...

Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the G.W.O.P.No.65 of 2024 on the file of the Hon'ble Principal District Judge at Kanchipuram and transfer the same to Hon'ble Family Court at Chennai.

For Petitioner : Mr.T.Surendran

For Respondent : Ms.S.Tamilzharasi

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of G.W.O.P.No.65 of 2024 on the file of the Principal District Court at Kanchipuram and transfer the same to the Family Court at Chennai.



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2. I heard both sides and the learned counsel for the respondent submitted that the respondent/husband has no objection to transfer the G.W.O.P.No.65 of 2024 from the file of the Principal District Court, Kanchipuram to The Family Court, Chennai. I have gone through the affidavit.

3. The petitioner married the respondent on 01.09.2019. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in D.V.C.No.5 of 2022 before the Magistrate Court, Sriperambudur. The respondent/husband initiated proceedings in HMOP.No.167 of 2022 for divorce, thereafter, the petitioner/wife filed a maintainability application and the case was transferred to the Sub Court, Kancheepuram and renumbered as O.P.No.411 of 2022. In respect of O.P.No.411 of 2022, the petitioner/wife filed a transfer CMP.No.694 of 2024 before this Court, in which, stay was granted and the same is still pending before this Court.



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4. In this situation, the respondent/husband initiated proceedings in

G.W.O.P.No.65 of 2024 before the Principal District Judge, Kanchipuram for sole legal custody of the minor son A.Nilan, who is aged about 4 years. Pleading that the wife is residing in Chennai and unable to travel from Chennai to Kancheepuram, she has moved this transfer petition.

5. 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 Chennai and Kancheepuram 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.

6 .Accordingly, GWOP.No.65 of 2024 is withdrawn from the file of the Principal District Judge, Kanchipuram and transferred to the file of



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the Family Court, Chennai. The learned Family Judge, Chennai on transfer of the proceedings, shall re-number the same and proceed further.

7. 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.

8. 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.The Principal District Judge at Kanchipuram.

2. The Family Court at Chennai.



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V. LAKSHMINARAYANAN,J.

mrp

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