



Tr.C.M.P.No.1130 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.1130 of 2024
and C.M.P.No.24783 of 2024

A.Sarojini

.. Petitioner

Vs

M.Sakthivel

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw and transfer the H.M.O.P.No.53 of 2021 pending on the file of the Sub Court, Harur to Family Court, Salem.

For Petitioner : Mr.P.Muthusamy

For Respondent : Mr.C.Munusamy

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.53 of 2021 from the file of the Sub Court, Harur and transfer the same to the learned Family Court, Salem.



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

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3. The petitioner married the respondent on 30.11.2017. From the wedlock, they were blessed with one male child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.53 of 2021 for divorce before the learned Sub Court at Harur. Pleading that now the wife is residing in Salem and unable to travel from Salem to Harur, 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 Salem and Harur 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.



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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. The Transfer Civil Miscellaneous Petition is ordered on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

Index :Yes/No
Speaking order/Non-speaking order
Neutral Citation :Yes/No
rts

To
1.The Subordinate Judge, Harur.
2.The Judge, Family Court, Salem.



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V. LAKSHMINARAYANAN, J.

rts

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