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Tr.C.M.P.No.1087 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.1087 of 2024
& C.M.P.No.23879 of 2024

U.K.Sowmiya

.. Petitioner

Vs

P.G.Satheesh

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the H.M.O.P.No.101 of 2024 on the file of the Subordinate Court, Thiruchengode, and transfer the same to the Subordinate Court, Erode by appreciating the above said facts and circumstances of the case.

For Petitioner : Mr.C.Ramaraj
For Respondent : No Appearance

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.101 of 2024 from the file of the Subordinate Court, Thiruchengode and transfer the same to the file of the Subordinate Court, Erode.



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2. I heard Mr.C.Ramaraj for the transfer petitioner. I have gone through the affidavit.

3. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel. Since the service has been completed, I took up the transfer petition for disposal.

4. The petitioner married the respondent on 24.03.2016. From the wedlock, they were blessed with a child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.39 of 2023 for divorce before the learned Subordinate Court, Sathyamangalam. Thereafter, the petitioner/wife filed a transfer petition before this Court in Tr.C.M.P.No.792 of 2023 to withdraw H.M.O.P.No.39 of 2023 and to transfer the same to the Subordinate Court, Thiruchengode and the same was allowed. Pursuant to the said order, the Subordinate Court, Thiruchengode re-numbered the petition in H.M.O.P.No.101 of 2024. Subsequently, the petitioner/wife got a job in Erode. Now, pleading that she is unable to travel from Erode to Thiruchengode, she has moved this transfer petition.



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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. 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, H.M.O.P.No.101 of 2024 is withdrawn from the file of the Subordinate Court, Thiruchengode and transferred to the file of the Subordinate Court, Erode.

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.



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8.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

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To

1.The Subordinate Court, Thiruchengode.

2.The Subordinate Court, Erode.

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