



Tr.C.M.P.No.1149 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.1149 of 2024
and C.M.P.No.25142 of 2024

S.Aarthi @ Saranya

.. Petitioner

Vs

M.Praveen Kumar

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case of H.M.O.P.No.34 of 2024 pending on the file of the Sub Court, Neyveli at Cuddalore and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.M.Rakhi

For Respondent : Mr.K.Elango
M/s.Krishna Law Associates

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.34 of 2024 from the file of the Sub Court, Neyveli at Cuddalore and transfer the same to the Family Court at Chennai.



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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 01.02.2021. From the wedlock, they were blessed with a male child. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in H.M.O.P.No.34 of 2024 for restitution of conjugal rights before the learned Subordinate Judge, Neyveli at Cuddalore. The petitioner/wife initiated proceedings in MC(SR)No.3590 of 2023 for maintenance before the Family Court at Chennai. Pleading that the wife is residing in Chennai and unable to travel from Chennai to Cuddalore, 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 Chennai and Cuddalore is considerable and since it will



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be difficult for the wife to leave the child behind and travel to attend the Court, I am inclined to accept the transfer. Further it is essential to try both the cases together.

5. Accordingly, H.M.O.P.No.34 of 2024 is withdrawn from the file of the learned Subordinate Judge, Neyveli at Cuddalore and transferred to the file of the learned Family Judge at Chennai.

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. 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
rts



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V. LAKSHMINARAYANAN, J.

rts

To

- 1.The Subordinate Judge, Neyveli at Cuddalore.
- 2.The Family Judge at Chennai.

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