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TR CMP No. 1116 of 2023



DATED: 03-09-2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**TR CMP No. 1116 of 2023
in C.M.P.No.26792 of 2023**

A.Sindhuja

Petitioner(s)

Vs

N. Senthilkumar

Respondent(s)

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C. to withdraw the HMOP No.66/2022 before the Learned Principal Subordinate Court, Kallakurichi and District and to transfer the same to the Principal Subordinate Court, Vriddhachalam, Cuddalore District and tried along with HMOP No.45/2023.

For Petitioner(s): Mr.Ar.Karthik Lakshmanan

For Respondent(s): NA

ORDER

This petition has been filed to withdraw the HMOP. No.66 of 2022 from the file of the Principal Subordinate Court, Kallakurichi, and to transfer the same to the file of the Principal Subordinate Court, Vriddhachalam, Cuddalore



District.

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2. Heard Mr.AR.Karthik Lakshmanan, learned counsel for the petitioner.

3. The learned counsel for the petitioner submits that the sole respondent has been served notice, but he has not chosen to enter appearance and the name of the respondent is also printed in the cause list, however, there is no representation on behalf of the respondent. Accordingly, the sole respondent is called absent and set ex-parte.

4. The learned counsel for the petitioner submits that respondent has filed HMOP.No.66 of 2022 seeking divorce, which is pending before the Principal Subordinate Court, Kallakurichi and requests that the case be transferred to the Principal Subordinate Court, Vriddhachalam, Cuddalore District, as it would be convenient for both parties. The learned counsel for the petitioner further submits that this transfer would not cause any prejudice to the respondent, and therefore, the transfer request made by the petitioner/wife may be allowed.



5. I have gone through the affidavit filed in support of the transfer petition as well. I find merit on the submission made by the learned counsel for the petitioner.

6. At this juncture, it may be apposite to cite the judgment of the Hon'ble Apex Court in **N.C.V.Aishwarya vs. A.S.Saravana Karthik** (**MANU/SC/1211/2022 : 2022 Live Law (SC) 627**) held at paras 9 and 10, which reads as under:-

"9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer. (emphasis supplied)

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are



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interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions”.

7. It is also relevant to refer the decision made by the Madurai Bench of Madras High Court in TR.CMP(MD)No.108 of 2010 dated 03.03.2011, wherein, it has observed as below:-

"18.It is true that section 19 of the Hindu Marriage Act, has been amended by insertion of proviso of (iii)(a) to section 19. Of Course, this amended section 19(iii)(a) gives special preference to the wife to file a petition or defending the case of the husband before the Court within whose jurisdiction she resides. The intention of the legislator is to safe-guard the interest and rights of the women, who are being subjected to harassment and cruelty. But this special preference conferred under section 19 (iii)(a) of the Hindu Marriage Act shall not be used to wreck vengeance on the husband. There must be a justifiable cause to select the jurisdiction of the Court where she resides."

8. In light of the the proposition laid down in the judgment of the Hon'ble Supreme Court in ***N.C.V.Aishwarya*** case cited *supra* and also in view of the observation made by this Court, wherein, it has been held that convenience of the wife has to be considered, while transferring the case from one Court to another, there can be no impediment for allowing this petition as prayed for.



9. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in HMOP. No.66 of 2022 is hereby withdrawn from the file of the Principal Subordinate Court, Kallakurichi and transferred to the file of the Principal Subordinate Court, Vriddhachalam, Cuddalore District.

10. Considering that the petition in HMOP.No.45 of 2023 filed by the wife and the petition in HMOP. No.66 of 2022 filed by the husband are pending since 2022, the learned trial Judge is requested to dispose the cases as expeditiously as possible. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

03-09-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

1. The Principal Subordinate Court,
Kallakurichi.

2. The Principal Subordinate Court,
Vriddhachalam, Cuddalore
District.

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M.JOTHIRAMAN, J.

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