



Tr.CMP.No.943 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2025

CORAM:

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

Tr.CMP.No.943 of 2025
and CMP.No.21448 of 2025

Maanasa

... Petitioner

vs.

P.Shankar Narayanan

... Respondent

Prayer: Petition filed under Section 24 of the Civil Procedure Code, 1908 seeking to withdraw and transfer O.P.No.1162 of 2022 from the file of the V Additional Judge, Family Court, Chennai to any other Family Court within Chennai, competent to hear and dispose of the said petitions.

For Petitioner : Mr.C.Prasanna Venkatesh

For Respondents : Mr.V.Subramanian

ORDER

The petitioner / wife has chosen to file this petition seeking transfer of O.P.No.1162 of 2022 on the file of the V Additional Family Court at Chennai to any other Family Court at Chennai.



Tr.CMP.No.943 of 2025

WEB COPY

2. In the affidavit filed in support of this petition, it has been stated that the petitioner / wife filed O.P.No.1162 of 2022 for restitution of conjugal rights, in which an interim application for maintenance in I.A.SR.12981 of 2024 was filed in February, 2024 and the petitioner/wife promptly represented the same during September, 2024. Due to administrative inefficiency, there was misplacement at the Court Registry and the said application was subsequently traced out and posted on 10.07.2025. In the meanwhile, the petitioner has filed proof affidavit and proceeded with the trial in the main original petition, without considering the application filed therein by the Court below. Therefore, the petitioner/wife preferred Civil Revision Petition in CRP.No.3610 of 2025, seeking a direction to dispose of the aforesaid application and this Court, vide order dated 08.08.2025, issued directions to dispose of the application.

3. According to the petitioner, the attitude of the learned Family Court Judge has shifted drastically. Upon hearing the respondent submissions, the learned Judge has put forth a statement that the petitioner ought to move to the Hill Station, Kodaikanal where the respondent / husband resides to receive some



Tr.CMP.No.943 of 2025

WEB COPY

form of maintenance. The petitioner, responding the same, had highlighted her inability and shown medical reports, however the learned Judge has insensitively made some sarcastic remarks on three occasions on her and after hearing the nature of the profession of the father also, made some remarks and such remarks not only belittled her plea, but also reflected gender biased approach.

4. The respondent / husband has filed a counter wherein it has been stated that transfer CMP has been filed solely with an intention to delay the proceedings and the allegations of bias against the judicial officer concerned is wholly unfounded, frivolous and contemptuous in nature. On 19.08.2025, the Judicial Officer only advised the petitioner, in her own interest, to make an attempt to reside at Kodaikanal along with daughter and husband, considering the welfare and education of the child and the learned Judicial Officer never compelled or coerced the petitioner, but only made a conciliatory suggestion, which is well within the scope of matrimonial jurisdiction.

5. The learned counsel appearing for the petitioner would submit that when the copy of the order passed by this Court in CRP.No.3610 of 2025 has been



Tr.CMP.No.943 of 2025

WEB COPY

furnished before the Court below with the hope that the application will be taken up, but at that juncture, the character of the learned Family Court Judge has shifted drastically for the reasons best known to him. The learned counsel for the petitioner further submits that the learned Family Court Judge had made sensitive remarks on three occasions against the petitioner and such remarks not only caused embarrassment to the petitioner, but shaken her confidence in the fairness and impartiality of the proceedings.

6. *Per contra*, learned counsel appearing for the respondent/husband would submit that the learned Family Court Judge not only advised the petitioner on her own interest to make an attempt to reside at Kodaikanal along with daughter and husband, considering the welfare and higher secondary education of the child and the learned Judge never compelled or coerced the petitioner / wife, but only made a conciliatory suggestion, which is well within the scope of matrimonial jurisdiction.

7. This Court has considered the rival submissions and also perused the entire materials available on record.



Tr.CMP.No.943 of 2025

WEB COPY

8. On perusal of the affidavit filed by the petitioner / wife seeking transfer, this Court was constrained to call for remarks from the Judicial Officer concerned. Accordingly, the learned V Additional Family Court Judge, Chennai has submitted his remarks to this Court, vide communication dated 23.09.2025 and the same is extracted hereunder:

"I am humbly submitting the following particulars as my remarks as called for from me by the Hon'ble High Court under letter reference cited above:

a At the first instance I would like to submit that the copy or the affidavit of the Tr.C.M.P is not enclosed along with the above letter cited in the reference. Therefore I am not aware as to what is stated in the said application and with respect to what averment, the remarks is called for.

b O.P.No. 1162 of 2022 was filed by one Manasa, W/o. Shankar Narayanan under section 9 of the Hindu Marriage Act 1955 seeking for restitution and the main prayer given in the Petition is "To direct the respondent to join the conjugal rights of the petitioner." This application was filed on 18.3.2022 and for the past 3½ years the application has not crossed the stage of PWI's evidence. The process of mediation was completed in July 2023.

c. Thereafter the case was adjourned to 16.8.2023 for the examination of PW1. On 22.11.2023, the wife had filed an application was filed under section 26 of HM Act for visitation rights. Another application for return of the articles was also filed by the Petitioner wife.

d. When the Petitioner wife has sought for restitution of conjugal rights, which is impliedly for reunion, and when Petitioner/wife, Respondent/husband and their child is going to live together, then the question of filing application for visitation rights and for the return of articles does not arise. So by filing such applications, the Petitioner/wife has expressed her intentions.

e. On 6.8.2024 at the request of the parties, the case was adjourned to 13.9.2024 and then to 9.10.2024 for reporting settlement. When the parties have sought time for reporting settlement, the Petitioner/wife has



Tr.CMP.No.943 of 2025

WEB COPY

prepared and signed the affidavit supporting the application for interim maintenance on 8.7.2024 and had filed the said application into court subsequently. As bank statement was not filed, it was returned on 13.9.2024 and was again represented on 18.11.2024 without court fees.

f. I further humbly submit that after I assumed office on 9.6.2025, I had adjourned the case to 2.8.2025 for marking of documents. Only on that date it was brought to my notice that an application for interim maintenance is pending.

g. On 2.8.2025 it was recorded in the B diary that "Both Present. PW1 is not ready for marking of Documents. It is submitted that she has preferred CRP stating that the application u/s 24 of HM act first before proceeding with the trial. The interim maintenance application & the application filed to condone the a delay in representing the interim maintenance application were filed into court with affixing CF. c/o 19.8.2025 for MOD fin". The word 'out' was mistakenly omitted above. The interim application was returned on the same day stating that the Court Fee was not affixed.

h The said application for interim maintenance was represented only on 6.8.2025 after affixing the court fee and the entry of the section of the Principal Court is also made to that effect on the petition. But in the meantime the Petitioner/wife has approached the Hon'ble High Court stating that the trial Court is not taking up her application for interim maintenance. It is also to be noted that after the Petitioner/wife has filed the Restitution application in 2022, she has properly represented the interim maintenance application only on 6.8.2025 and for the past 3 years, she has not felt the requirement of monetary help or maintenance. In fact her son is with the custody of her father.

i On 19.8.2025, the copy of the orders of the Hon'ble High Court was placed before this court, wherein it was stated that a direction to take up the interim maintenance application on priority basis and to dispose of the same within 8 weeks. Armed with the said order, the Petitioner/wife wanted to take up the said application on the said date and hence the before the was Petitioner's side arguments was heard, even before the respondent/husband had filed the counter.

j. Interestingly, the Respondent/husband had filed an affidavit stating that he is ready to extend an opportunity to the Petitioner to rejoin him so that they can lead a peaceful and harmonious life together. He has also prayed that he is ready to take her to the matrimonial house and an



Tr.CMP.No.943 of 2025

WEB COPY

appropriate order be passed on the basis of such affidavit. The Petitioner/wife opposed to the said affidavit. She cannot prevent her husband from filing such affidavit.

k I would like to submit that after the affidavit is filed, then nothing survives in the main application, as the main application itself is for restitution. By such affidavit, the main OP should be automatically declared and in such an event, the Petitioner cannot keep her applications, such as the one for visitation, return of articles and for interim maintenance pending. Aggrieved by the same the Petitioner now claims that she has moved for transfer of this case to another court.

l It is respectfully submitted that after the affidavit is filed by the Husband expressing his willingness for restitution with his wife, the prayer which the Petitioner/wife seeks in the main O.P.No.1162/2022, would be naturally granted to her and there would be no need to go into the ordeal of Trial at all. If the Petitioner/wife objects to the said affidavit, and wants only the interim maintenance application to be heard and decided, then it can be safely concluded that her intention in filing this application under section 9 of the HM act is not really for restitution with her husband.

m. I further humbly submit that if the copy of the Transfer application is furnished I would be able to give further remarks if necessary, if there are any other allegations that require my explanation.

I am humbly submitting the above facts as my remarks to the letter under Reference cited above and pray the same may kindly be recorded."

9. It is to be noted that burden lies on the petitioner/wife to make out a strong case seeking for transfer. The allegations levelled against the judicial officer concerned, based on which transfer is sought, appears to be serious in nature. It is to be noted that transfer of case from one Court to another is a serious matter because it indirectly casts doubts on the integrity or competence of the



Tr.CMP.No.943 of 2025

WEB COPY

Judge from whom the matter is transferred. If there are good and sufficient reasons for transferring a case from one Court to another, they must be clearly set out. Mere presumption or possible apprehension could not and should not be the basis of transferring a case from one Court to another. Unless there are specific instances of bias and the Presiding Officer has personal interest in the subject matter of the Suit, he cannot be branded as a biased officer. This would demoralise the officers in the eye of the public and it would become very difficult for such officers to work in a free and unbiased atmosphere.

10. Considering the reasons stated in the affidavit filed in support of this petition, the counter filed by the respondent and also considering the remarks called from the Judicial Officer concerned, this Court is of the view that the petitioner has not made out a strong case for transfer and therefore, this Court is not inclined to allow this petition.

11. In the result, this Transfer Civil Miscellaneous Petition stands dismissed. Since the Original Petition is of the year 2022, the learned V Additional Family Court Judge, Chennai is requested to dispose of O.P.No.1162



Tr.CMP.No.943 of 2025

WEB COPY

of 2022 pending on its file as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is also dismissed.

15.10.2025

Intex : Yes/No
Internet : Yes/No
Jvm

To
V Additional Family Court,
Chennai.

M.JOTHIRAMAN, J.

Jvm



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Tr.CMP.No.943 of 2025

TR.CMP.No.943 of 2025

15.10.2025