



Tr.C.M.P.No.1163 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.1163 of 2024
and C.M.P.No.25400 of 2024

Thirumangai

.. Petitioner

Vs

Thanigaivel

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the H.M.O.P.125 of 2023 from the file of the Sub Court, Rasipuram and transfer the same to the file of Family Court, Puducherry to be tried along with M.O.P.712 of 2024 on the file of Family Court, Puducherry.

For Petitioner : Mr.A.Murali

For Respondent : Mr.B.Gopalakrishnan

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.125 of 2023 from the file of the Sub Court, Rasipuram and transfer the same to the Family Court, Puducherry.



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

3.The petitioner married the respondent on 27.10.2021. They have no issues. Due to disputes and differences, the parties have separated. The respondent/husband initiated proceedings in M.O.P.No.125 of 2023 for divorce before the learned Subordinate Judge at Rasipuram. The wife also filed a petition in H.M.O.P.No.712 of 2024 as against her husband, before the Family Court, Puducherry, for restitution of conjugal rights. She also filed complaint in DVC.No.134 of 2023 before the learned Judicial Magistrate, Mahila Court (Magistrate Level), Puducherry, praying for protection. Pleading that the wife is residing in Puducherry and unable to travel from Puducherry to Rasipuram, 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



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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 Puducherry and Rasipuram is considerable and since it will be difficult for the wife to travel to attend the Court, I am inclined to accept the transfer.

5. Accordingly, H.M.O.P.No.125 of 2023 is withdrawn from the file of the learned Subordinate Judge at Rasipuram and transferred to the file of the learned Family Judge at Puducherry.

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. The Judicial Magistrate, Mahila Court (Magistrate Level), Puducherry, who is dealing with the D.V.C.No.134 of 2023 shall list the matter on dates aligning with the proceeding pending before the Family Court, Puducherry.



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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

To

1. The Subordinate Judge at Rasipuram.

2. The Family Judge at Puducherry.

3. The Judicial Magistrate,
Mahila Court (Magistrate Level),
Puducherry,



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V. LAKSHMINARAYANAN, J.

rts

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