



Tr.C.M.P.No.1223 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.1223 of 2024

and

C.M.P.No.26736 of 2024

O.S.Advaitha

.. Petitioner

Vs.

S.Manikandan

.. Respondent

Prayer: This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, praying to withdraw H.M.O.P.No.152 of 2024, pending on the file of the Sub Court, Chidambaram and transfer the same to the Family Court, Cuddalore.

For Petitioner : Mr.D.Baskar

For Respondent : Mr.E.Paramasivan



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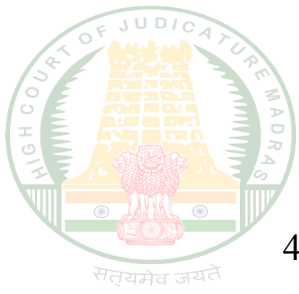
ORDER

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This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.152 of 2024 from the file of the Sub Court, Chidambaram and transfer the same to the file of the Family Court, Cuddalore.

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

3.The petitioner married the respondent on 10.02.2021. 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.152 of 2024 for divorce before the Sub Court, Chidambaram. The petitioner/wife initiated proceedings in unnumbered M.C. of 2024 for monthly maintenance of the minor child before the Family Court at Cuddalore. Pleading that the wife is residing in Cuddalore and unable to travel from Cuddalore to Chidambaram, she has moved this transfer petition.



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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 Cuddalore and Chidambaram is considerable and 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.

5.Accordingly, H.M.O.P.No.152 of 2024 is withdrawn from the file of the Sub Court, Chidambaram, and transferred to the file of the Family Court, Cuddalore. The learned Judge, Family Court at Cuddalore, on transfer of the proceedings, shall re-number the same and try it along with Unnumbered M.C. of 2024, which is said to be pending on his file.

6.The Family Court need not insist upon the appearance of the husband



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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. Consequently, connected miscellaneous petition is closed. No costs.

24.01.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1. The Subordinate Judge,
Sub Court, Chidambaram.

2. The Judge,
Family Court,
Cuddalore.

V.LAKSHMINARAYANAN, J.



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