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Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.1048 of 2025

and

C.M.P.No.23526 of 2025

A.Karthiga

... Petitioner

Vs

S.Hariharan

... Respondent

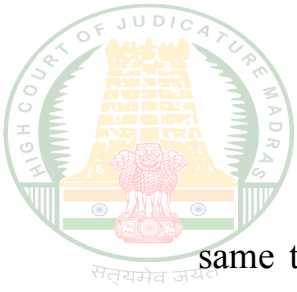
Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw HMOP No.176 of 2025 pending before the Additional Subordinate Court, Kumbakonam, and transfer the same and tried along with HMOP. No.86 of 2024 to the file of the Principal Subordinate Court, Coimbatore.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondent : Mr.G.Prabakaran

ORDER

This petition has been filed to withdraw HMOP No.176 of 2025 from the file of the Additional Subordinate Court, Kumbakonam, and transfer the



Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

same to the file of the Principal Subordinate Court, Coimbatore, to try the same along with H.M.O.P.No. 86 of 2024.

2. Heard the learned counsel on both sides.

3. The learned counsel appearing for the petitioner would submits that the petitioner / wife filed an application for divorce in HMOP.No.86 of 2024 before the Principal Subordinate Court, Coimbatore, against which, the respondent / husband also filed an application for divorce in HMOP.No.176 of 2025 before the Additional Subordinate Court, Kumbakonam, seeking for restitution of conjugal rights making allegations and averments against the petitioner. The learned counsel further would submit that in order to avoid conflicting judgments, HMOP.No.176 of 2025, which is pending on the file of Additional Subordinate Court, Kumbakonam, has been transferred to Subordinate Court, Coimbatore, it will convenient for either parties. The learned counsel further would submit that the petitioner is residing at Coimbatore along with her old aged parents and also working in Indian Bank at Coimbatore. The petitioner would not be able to travel to Kumbakonam for



Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

every hearing to attend the case, since the petitioner needs to travel 625 kms.

Therefore, the case in HMOP No.176 of 2025 may be withdrawn from the file of the Additional Subordinate Court, Kumbakonam, and transferred to the file of the Principal Subordinate Court, Coimbatore, to be tried along with HMOP.No.86 of 2024.

4. *Per contra*, the learned counsel appearing for the respondent/husband would submit that if the case has been transferred from the Additional Subordinate Court, Kumbakonam to Principal Subordinate Court, Coimbatore, it will cause serious prejudice to the respondent and object to transfer the same. The learned counsel further would submit that the petitioner / wife not chosen to appear before the Court below for each and every hearing.

5. I have gone through the affidavit filed in support this petition and I find merit in the submissions 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***



Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

(MANU/SC/1211/2022 : 2022 Live Law (SC) 627) held at paras 9 and 10,

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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 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,



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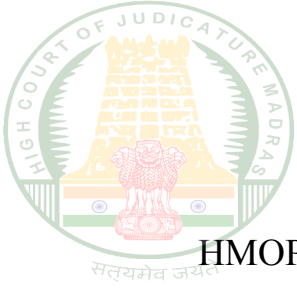
Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

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 the light of the proposition laid down in the judgment of the Hon'ble Supreme Court in *N.C.V.Aishwarya* case cited *supra* and also in the light 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. The personal appearance of the respondent shall dispensed with for the present as and when required by the Principal Subordinate Court, Coimbatore, the respondent shall appear.

10. Accordingly, this transfer civil miscellaneous petition is allowed. The case in HMOP.No.176 of 2025 is hereby withdrawn from the file of the Additional Subordinate Court, Kumbakonam, and transferred to the file of the Principal Subordinate Court, Coimbatore, to be tried along with



Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

HMOP.No.86 of 2024 on the file of the Principal Subordinate Court,

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Coimbatore. Considering the facts there shall be no orders as to costs.

Consequently, connected Civil Miscellaneous Petition is closed.

13.10.2025

mtl

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No



WEB COPY



Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

M. JOTHIRAMAN, J.

mtl

To

1. The Additional Subordinate Court, Kumbakonam.
2. The Principal Subordinate Court, Coimbatore.

Tr.CMP.No.1048 of 2025
and C.M.P.No.23526 of 2025

13.10.2025