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Tr.C.M.P.No.1258 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**TR CMP No.1258 of 2024
and CMP No.27317 of 2024**

M.Subbulakshmi
D/o.Murugan, W/o.Mugunthan,
No.4/95 Chellipattanam Street,
Tenmalai Village, Sivagiri Taluk,
Tenkasi District - 627 757.

Petitioner(s)

Vs

V.Mugunthan
S/o.Venkatamani,
No.144 Governor Thoppu, Uthangarai,
Krishnagiri District - 635 207.

Respondent(s)

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C.
to withdraw H.M.O.P.No.4 of 2024 from the file of the Subordinate Court,
Uthangarai and transfer the same to the file of the Subordinate Court,
Sankarankoil, Tenkasi District.

For Petitioner(s): Mr.S.Iyappan

For Respondent(s): No appearance



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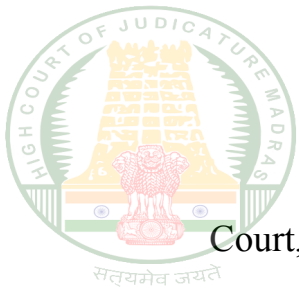
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ORDER

This petition has been filed to withdraw H.M.O.P.No.4 of 2024 from the file of the Subordinate Court, Uthangarai and transfer the same to the file of the Subordinate Court, Sankarankoil, Tenkasi District.

2. Heard Mr.S.Iyappan, learned counsel for the petitioner.

3. The learned counsel appearing for the petitioner would submit that the respondent/husband filed a petition for restitution of conjugal rights before the Subordinate Court, Uthangarai and the same is pending in H.M.O.P.No.4 of 2024. The petitioner filed a complaint in D.V.C.No.1 of 2024 and maintenance case in M.C.No.4 of 2024 before the Judicial Magistrate Court, Sivagiri, against the respondent. The petitioner is living with her aged parents along with her child and she is totally dependent on her father, who is an agricultural labourer. In such circumstances, it is very difficult for the petitioner to travel from Tenmalai to Uthangarai for attending each and every hearing of the case. That apart, the respondent is attending every hearing of the aforesaid cases viz. D.V.C.No.1 of 2024 and M.C.No.4 of 2024 filed by the petitioner before the Judicial Magistrate



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Court, Sivagiri. Therefore, the case in H.M.O.P.No.4 of 2024 may be withdrawn from the file of the Subordinate Court, Uthangarai and transferred to the file of the Subordinate Court, Sankarankoil, Tenkasi District.

4. Though the respondent entered appearance through a counsel and his name being duly printed in the cause list, there is no representation on behalf of the respondent/husband today.

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*** (***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



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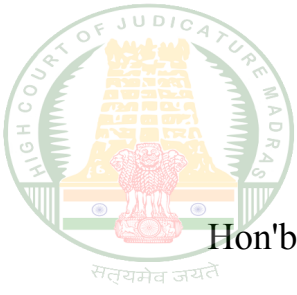
called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties 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, 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. Considering the proposition laid down in the judgment of the



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Hon'ble Supreme Court in *N.C.V.Aishwarya* case cited *supra* and also

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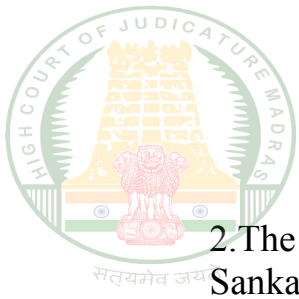
considering the observation made by this Court, wherein, it has been held that convenience of the wife has to be considered, while transferring the case from one Court to another, there can be no impediment for allowing this petition as prayed for.

Accordingly, this transfer civil miscellaneous petition is allowed. The case in H.M.O.P.No.4 of 2024 is hereby withdrawn from the file of the Subordinate Court, Uthangarai and transferred to the file of the Subordinate Court, Sankarankoil, Tenkasi District. No costs. Connected C.M.P. is closed.

15-09-2025

nsd
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

To
1. The Subordinate Judge,
Uthangarai.



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2. The Subordinate Judge,
Sankarankoil, Tenkasi District.

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M.JOTHIRAMAN J.

nsd

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