



Tr.C.M.P.No.1211 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-10-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**TR CMP No.1211 of 2023
and CMP Nos.28963 & 28964 of 2023**

Kalaipriya
D/o.Subramani,
31, Sri Bannari Mariamman Nagar, Chandrapuram East,
Tiruppur South, Tiruppur District.

Petitioner(s)

Vs

Omsakthi Vijay
S/o.Kannan
No.6/955/6, I.T.P.T. Colony, Bareli Road,
Chinna Mooppanpatti Village, Viruthunagar Taluk,
Viruthunagar District.

Respondent(s)

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C.
to withdraw H.M.O.P.No.73 of 2023 from the file of the Subordinate Court,
Viruthunagar and transfer the same to the file of the Family Court, Tiruppur.

For Petitioner(s): Mr.C.S.Saravanan

For Respondent(s): Omsakthi Vijay - remained absent



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ORDER

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This petition has been filed to withdraw H.M.O.P.No.73 of 2023 from the file of the Subordinate Court, Viruthunagar and transfer the same to the file of the Family Court, Tiruppur.

2. Heard Mr.C.S.Saravanan, learned counsel for the petitioner.

3. The learned counsel appearing for the petitioner would submit that the respondent has not chosen to enter appearance before this Court despite service of notice.

4. It is seen that service of notice has been completed on the respondent and the name of the respondent is also printed in the cause list today. The respondent was called absent and set *ex parte*.

5. The learned counsel appearing for the petitioner would submit that the respondent filed a petition for divorce before the Subordinate Court, Virudhunagar and the same is pending in H.M.O.P.No.73 of 2023. Subsequently, the petitioner filed a petition for restitution of conjugal rights



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before the Family Court, Tiruppur and the same is pending in H.M.O.P.No.215 of 2023. The petitioner is living with her parents in Tiruppur South, Tiruppur District and it is difficult for her to travel more than 200 kms from Tiruppur to Viruthunagar for attending each and every hearing of the case. Therefore, the case in H.M.O.P.No.73 of 2023 may be withdrawn from the file of the Subordinate Court, Viruthunagar and transferred to the file of the Family Court, Tiruppur.

6. 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.

7. 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



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”.

8. 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."

9. In light of 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 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.73 of 2023 is hereby withdrawn from the file of the Subordinate Court, Viruthunagar and transferred to the file of the Family Court, Tiruppur. No costs. Connected C.M.Ps. are closed.

10-10-2025

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

To
1.The Subordinate Judge,
Virudhunagar.

2.The Judge, Family Court,
Tiruppur.



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M.JOTHIRAMAN J.

nsd

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