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TR CMP No. 231 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

TR CMP No. 231 of 2024

and

CMP No.4631 of 2024

1. A.Jeeva

W/o. E.Annamalai, No.4/6, Main Road,
M.Kunnathur Village, Ulunderpet
Taluk, Kallakurichi District.

Petitioner(s)

Vs

1. E.Annamalai

S/o. Elumalai, No.24, Old No.71, Annai
Sathya Nagar B Block, 12th Street,
Periyar Salai, Kodungaiyur, Chennai
District -600 118.

Respondent(s)

PRAYER

This Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw and transfer HMOP NO. 5215 of 2021 from the file of the IV Additional Family Court at Chennai and transfer the same to the file of Sub-Court at Ulunderpet and thus render justice.



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For Petitioner(s): Mr.A.Arikrishnan

For Respondent(s): No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw and transfer the case in HMOP NO. 5215 of 2021 from the file of the IV Additional Family Court at Chennai and transfer the same to the file of Sub-Court at Ulunderpet.

2. Today, when the matter is taken up for hearing, there is no representation for the respondent.

3. Heard Mr.A.Arikrishnan, the learned counsel for the petitioner and perused the materials available on record.

4. Learned counsel for the petitioner submitted that the respondent/husband has filed HMOP No.5215 of 2021 on the file of the IV Additional Family Court, Chennai, seeking restitution of conjugal rights. After desertion of the respondent/husband, the petitioner/wife and her child are staying in her parents home at M.Kunnathur Village, Ulunderpet Taluk,



Kallakurichi District. The petitioner/wife is facing difficulties to meet out the day-to-day family expenses and also she felt insecure to travel to Chennai to attend the court proceedings on all hearing dates.

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 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



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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. 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. In the light of the above, this Transfer Civil Miscellaneous Petition is allowed. The case in HMOP NO. 5215 of 2021 is withdrawn from the file of the IV Additional Family Court at Chennai and transferred to the file of the Sub-Court at Ulunderpet. Considering the facts there shall be no orders as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

15-09-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Judge, IV Additional Family Court at Chennai
2. The Subordinate Judge, Sub-Court at Ulunderpet



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M.JOTHIRAMAN J.

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