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Tr.C.M.P.No.1339 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.1339 of 2024
and C.M.P.No.28833 of 2024

M.Bhuvaneswari

.. Petitioner

Vs.

Sayee Prasanth

.. Respondent

Prayer: This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, praying to withdraw the case in H.M.O.P.No.3 of 2024 on the file of the Sub Court at Tambaram and transfer the same to the Family Court at Villupuram.

For Petitioner : Mr.K.Arunagiri

For Respondent : Ms.R.Lakshmi

ORDER

This transfer petition is at the instance of the wife. She seeks withdrawal of H.M.O.P.No.3 of 2024 from the file of the Sub Court, Tambaram and transfer the same to the file of the Family Court, Villupuram.

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



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3.The petitioner married the respondent on 12.02.2020. 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.3 of 2024 for restitution of conjugal rights before the Sub Court, Tambaram. Pleading that the wife is residing in Villupuram and unable to travel from Villupuram to Tambaram, she has moved this transfer petition.

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 Villupuram and Tambaram 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.



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5. Accordingly, H.M.O.P.No.3 of 2024 is withdrawn from the file of the

Sub Court, Tambaram, and transferred to the file of the Family Court, Villupuram.

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

V.LAKSHMINARAYANAN, J.

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To
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- 1.The Subordinate Judge,
Sub Court, Tambaram.
- 2.The Judge,
Family Court, Villupuram.

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