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Tr.CMP.No.77 of 2025 and
C.M.P.No.1524 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.77 of 2025

and

C.M.P.No.1524 of 2025

J.Kiruthika

... Petitioner

Versus

M.Saravanan

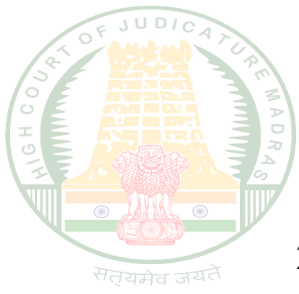
... Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw the case in H.M.O.P.No.237 of 2023 from the file of Family Court, Coimbatore and transfer the same to be tried along with H.M.O.P.No.166 of 2018 on the file of the Sub-Court, Pollachi.

For Petitioner : Mr.S.Prabhu
For Respondent : No appearance

ORDER

The petitioner-wife has filed the present transfer petition seeking withdrawal of H.M.O.P.No.237 of 2023 from the file of the Family Court, Coimbatore, and to transfer the same to be tried along with H.M.O.P.No.166 of 2018 pending on the file of the Subordinate Court, Pollachi.



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2. The learned counsel for the petitioner / wife submits that the petitioner has filed a petition for restitution of conjugal rights in H.M.O.P.No.166 of 2018 before the Subordinate Court, Pollachi, which is pending. The respondent / husband, on the other hand, has filed a petition for divorce in H.M.O.P.No.237 of 2023 before the Family Court, Coimbatore.

3. Despite service of notice in the present transfer petition, the respondent / husband has neither chosen to appear in person nor through counsel. The name of the respondent has also been printed in the cause list. Since there was no appearance, the respondent was called absent and set ex-parte. Accordingly, I proceeded to hear the learned counsel for the petitioner and also perused the affidavit filed in support of the transfer petition.

4. The petitioner has a school-going child, and when she attends hearings at Coimbatore, there is no one to take care of the child during her absence. Further, she is unable to bear the recurring travel expenses to Coimbatore for each hearing. The geographical distance and travel constraints



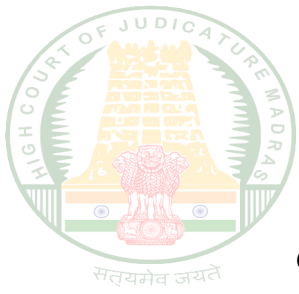
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are causing undue hardship and disruption, resulting in unnecessary delays in the proceedings. I am therefore satisfied that the petitioner has made out a valid ground for allowing the transfer petition.

5. 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".



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6. 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."

7. 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



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prayed for.

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8. In view of the above, this Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.237 of 2023 on the file of the Family Court, Coimbatore, is withdrawn and transferred to be tried along with H.M.O.P.No.166 of 2018 on the file of the Subordinate Court, Pollachi. Considering the facts there shall be no orders as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.09.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

1. The Family Court, Coimbatore
2. The Subordinate Court, Pollachi.

M. JOTHIRAMAN, J.



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