



Tr.C.M.P.No.3 of 2025
and C.M.P.No.184 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Tr.CMP.No.3 of 2025

and

C.M.P.No.184 of 2025

Sri Janani

... Petitioner

Vs

S.Karthi

... Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the CPC, to withdraw HMOP No.730 of 2023 pending before the Family Court, Salem and transfer the same to the file of the Subordinate Court, Attur,

For Petitioner : Mr.A.Sriram

For Respondent : No appearance

ORDER

This petition has been filed to withdraw HMOP No.730 of 2023 from the file of the Family Court, Salem, and to transfer the same to the file of the Subordinate Court, Attur.



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2. Heard the learned counsel appearing 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 petitioner got married to the respondent on 14.03.2022 at Arulmigu Sri Thanthonreeswarar Temple Belur, Salem, as per Hindu Rites and Customs. Out of the wedlock, they blessed with a female baby. She is presently aged 1½ years old. The petitioner / wife has filed a petition in M.C.No.54 of 2024 on the file of the Judicial Magistrate Court No.I, Attur, seeking for maintenance for the petitioner and her daughter. The respondent / husband filed H.M.O.P.No.730 of 2023 before the Family Court, Salem, seeking for restitution of conjugal rights making



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allegations and averments against the petitioner. The learned counsel for the petitioner further would submit that the petitioner could not able to travel from Attur to Salem along with her parents with female child for every hearing of the case. Therefore, the case in H.M.O.P.No.120 of 2024 may be withdrawn from the file of the Principal Subordinate Court, Dindigul and transferred to the file of Subordinate Court, Tiruvallur.

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



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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 the light of the proposition laid down in the judgment of



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WEB COPY 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.

10. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.730 of 2023 is hereby withdrawn from the file of the Family Court, Salem, and transferred to the file of the Subordinate Court, Attur. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

09.10.2025

mtl
Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

M. JOTHIRAMAN, J.

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To

1. The Family Court, Salem.
2. The Subordinate Court, Attur.

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