

Tr.C.M.P(MD)Nos.90 and 91 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.03.2025

Pronounced on : 24.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)Nos.90 and 91 of 2025

and

CMP(MD)Nos.2223 and 2226 of 2025

M.Ramaprapha

... Petitioner in both Tr.CMPs

Vs.

P.Manikandan

... Respondent in both Tr.CMPs

COMMON PRAYER : Transfer Civil Miscellaneous Petitions filed under Section 24 of the Code of Civil Procedure, to withdraw O.P.No.572 of 2023 and O.P.No.176 of 2024 respectively, pending on the file of the Family Court, Theni and transfer the same to the file of the Family Court, Madurai.

For Petitioner
in both Tr.CMPs : Mr.S.Ramakrishnan

For Respondent
in both Tr.CMPs : Mr.R.Shankar Ganesh



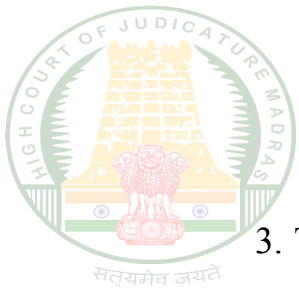
Tr.C.M.P(MD)Nos.90 and 91 of 2025

WEB COPY

COMMON ORDER

These Transfer Civil Miscellaneous Petitions are filed seeking for an order to withdraw the respective O.P.No.572 of 2023 and O.P.No.176 of 2024 from the file of the Family Court, Theni and to transfer the same to the file of the Family Court, Madurai.

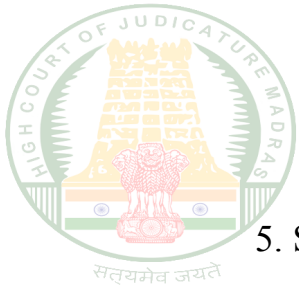
2. The petitioner herein is the wife of the respondent. The marriage between the petitioner and respondent has been solemnized on 05.09.2003 at N.S.N. Rathinavelu Saraswathi Marriage Mahal, Thenkarai, Periyakulam as per Hindu rites and customs. Out of wedlock, they were blessed with two female children and one male child, now they are studying. It is alleged that due to continuous harassment and cruelty by the respondent, the petitioner was forced to leave the matrimonial home and the petitioner along with her children are now residing with her parents at Madurai. Thereafter, the respondent filed the petition in HMOP.No.572 of 2023 before the Family Court, Theni, for divorce. The petitioner has filed O.P.No.176 of 2024 before the Family Court, Theni for restitution of conjugal rights. Therefore, the petitioner has filed these petitions for transfer of both cases to Madurai.



Tr.C.M.P(MD)Nos.90 and 91 of 2025

3. The learned counsel for the petitioner has submitted that the petitioner with her children were forced to leave the matrimonial home. She is now residing with her aged parents at Madurai along with her children without any means. The children are studying and out of three, one child is staying in hostel. She became a burden to her parents without any financial assistance. She finds it very difficult to travel more than 100 km to attend the Court at Theni. Moreover, the respondent has not been paying any maintenance towards the petitioner. In the above circumstances, the petitioner has filed these present Transfer Civil Miscellaneous Petitions.

4. The learned counsel for the respondent filed a counter and objected the petition. The learned counsel further submitted that the respondent is taking care of all expenses and education expenses of their children. The respondent was working abroad and gave all earnings to the petitioner, but she was not maintaining the family and the respondent's mother. She harassed the respondent in various ways. Because of the attitude of the petitioner, the respondent lodged a complaint before the Thenkarai Police Station against the petitioner and the petitioner also filed a complaint before the AWPS, Periyakulam. The respondent is diabetic patient.



Tr.C.M.P(MD)Nos.90 and 91 of 2025

5. Submissions of both side considered. The respondent and the petitioner

are husband and wife and out of wedlock they have three children, who are studying now. Due to misunderstanding, they are living separately and it is alleged by the petitioner that she left the matrimonial home. In such circumstances, the respondent filed the petition in O.P.No.572 of 2023 for divorce and the petitioner filed O.P.No.176 of 2024 for restitution of conjugal rights. Both petitions are pending before the Family Court, Theni. It is now stated that she is depending on her parents and she finds it difficult to travel more than 100 km as she is nearing 50 years old. It is well settled proposition of law by the number of decisions of the Hon'ble Supreme Court that whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference. Therefore, taking note of the settled position of the convenience of the wife in the matrimonial cases, this Court is of the view that the present petitions filed by the wife are to be allowed.

6. In the result, the Transfer Civil Miscellaneous Petitions in Tr.C.M.P(MD)Nos.90 and 91 of 2025 are allowed. The petitions in O.P.No.572 of 2023 and O.P.No.176 of 2024 on the file of the Family Court, Theni are hereby withdrawn and transferred to the file of the Family Court, Madurai for



Tr.C.M.P(MD)Nos.90 and 91 of 2025

disposal in accordance with law. The learned Judge, Family Court, Theni, is

WEB.COM

directed to transmit the entire records pertaining to the case in O.P.No.572 of 2023 and O.P.No.176 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. The Family Court, Madurai, is directed to take the case on file and dispose of both matters within a period of six months from the date of receipt of records. No costs. Consequently, the connected Miscellaneous Petitions are closed.

24.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Family Court,
Theni.
- 2.The Family Court,
Madurai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

5/6



WEB COPY



Tr.C.M.P(MD)Nos.90 and 91 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)Nos.90 and 91 of 2025
and
CMP(MD)Nos.2223 and 2226 of 2025

24.03.2025