



Tr.CMP(MD)No.63 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.04.2025

Pronounced on : 05.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.CMP(MD)No.63 of 2025

and

C.M.P(MD)No.1758 of 2025

Sudha

... Petitioner

Vs.

Panchavarnam

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the G.W.O.P.No.584 of 2024 on the file of the Family Court, Tirupur and to transfer the same to the file of the Family Court, Sivagangai for trial.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.M.Pandian



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the G.W.O.P.No.584 of 2024 on the file of Family Court, Tirupur and to transfer the same to the file of the Family Court, Sivagangai.

2. The petitioner is the wife of the deceased Muthusamy, who was the son of the respondent. Out of wedlock, the petitioner gave birth a female child and a male child. Her husband died on 21.02.2020. The children are stated to be residing along with the respondent. The respondent has filed the petition in G.W.O.P.No.584 of 2024 before the Family Court, Tirupur, to appoint them as natural guardian of the minor children against the petitioner and the same is pending.

3. The learned counsel for the petitioner has submitted that after the death of the petitioner's husband, the petitioner is residing with her parental home at M.Kovilpatti of Sivagangai along with her children. The petitioner is maintaining her children. Her daughter is studying at Panchayat Union School, M.Kovilpatti. Due to some domestic disputes arose between the petitioner and her in-laws, it is alleged that the petitioner's sister-in-law trespassed into her parental house and kidnapped the children and they are in the custody of the respondent.



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WEB COPY The petitioner tried to take back them in a peaceful manner, but all efforts ended in vain. The petitioner finds it difficult to travel from M.Kovilpatti to Tirupur to attend the guardian petition in GWOP.No.584 of 2024. He further submits that the convenience of the wife has to be favoured in the matter of matrimonial cases.

4. The learned counsel for the respondent filed a counter and objected the petition. The learned counsel further submitted that the marital status and birth of children out of wedlock are admitted. But, after the death of her husband on 21.02.2020, the petitioner left the children with the respondent and she eloped with one Karthick and then she was having illegal relationship with another man, Manikandan. These were intimated to the mother of the petitioner and in spite of warning, the petitioner has not changed her attitude and so there is a life threat to the children. The children are with the respondent for the past five years. The children are studying at government schools in Tiruppur and have produced a copy of the certificates issued by the Head Masters of the respective schools. Moreover, the petitioner has not taken any legal steps to take back the children. The respondent is aged about 65 years and only in order to harass the respondent, the petitioner has filed this petition. So, the petition may be dismissed.



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5. In reply, the petitioner denied the alleged illegal relationship with some

WEB other men.

6. Submissions of both sides considered. The respondent's side filed the typed sets of papers. On hearing both and on perusal of records, it is clear that the children are studying in the Municipality School and Panchayat Union School in Tirupur. The petitioner has not produced any prima facie material to show that the children are staying with her. The petitioner has produced a copy of the police complaint lodged by her. On perusal of the same, it is clear that for the allegation of kidnapping in the year 2023, the petitioner lodged a complaint only on 03.10.2024 before the Sub Inspector, Kundrakudi Police Station, ie., after lapse of one year. While the respondent took the plea that the petitioner left the children with the respondent, after the death of her husband in 2020, as rightly argued by the respondent, the petitioner has not taken any steps to take back the children by way of legal steps. The other allegations cannot be decided in this petition and the same can be decided by the trial Court in the main petition after adducing evidences. As of now, the minor children are residing along with the respondent and the children are also studying at Tirupur schools. The respondent is the mother-in-law of the petitioner, who is aged 65 years. These are not disputed by the petitioner. Though it is settled principle that the wife's convenience is



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predominantly looked into, the petitioner has not produced any contrary material in respect of her children who are residing and studying at Tirupur along with the respondent. Moreover, on the allegation of an alleged illegal relationship of the petitioner, the apprehension of life threat stated by the respondent is also taken note of. In the above facts and circumstances, this Court is not inclined to allow this petition.

7. In the result, this Transfer Civil Miscellaneous Petition is dismissed.

No costs. Consequently, the connected miscellaneous petition is closed.

05.06.2025

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

To

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



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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