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Tr.C.M.P(MD)Nos.57 and 62 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.02.2025

Pronounced on : 19 .03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)Nos.57 and 62 of 2025

and

CMP(MD)Nos.1717 and 1751 of 2025

Gunavathi

... Petitioner in both Tr.CMPs

Vs.

Balasubramanian

... Respondent in both Tr.CMPs

COMMON PRAYER : Transfer Civil Miscellaneous Petitions filed under Section 24 of the Code of Civil Procedure, to withdraw the G.W.O.P.No.93 of 2024 and H.M.O.P.No.78 of 2024 respectively, pending on the file of the Family Court, Ramanathapuram and transfer the same to the file of the Family Court, Sivagangai.

For Petitioner
in both Tr.CMPs : Mr.C.Senthil Murugan

For Respondent
in both Tr.CMPs : Mr.S.Vashik Ali



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COMMON ORDER

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These Transfer Civil Miscellaneous Petitions are filed seeking for an order to withdraw the respective petitions in G.W.O.P.No.93 of 2024 and H.M.O.P.No.78 of 2024 pending on the file of the Family Court, Ramanathapuram and to transfer the same to the file of the Family Court, Sivagangai.

2. The petitioner herein is the wife of the respondent. The marriage between the petitioner and respondent was solemnized on 25.10.2015 at Ramanathapuram according to Hindu rites and customs. Out of wedlock, they have been blessed with a male child. It is alleged that as there was misunderstanding arose between them, the respondent and his family members harassed the petitioner and the petitioner along with her son were driven out from the matrimonial house. The petitioner and her son are now residing with her parents at Sivagangai. Thereafter, the respondent filed the petition in G.W.O.P.No.93 of 2024 before the Family Court, Ramanathapuram for custody of minor son. The petitioner has filed the petition in H.M.O.P.No.78 of 2024, seeking divorce against the respondent on the ground of cruelty. Therefore, the petitioner has filed these petitions for transfer of both cases to Sivagangai.



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WEB COP 3. The learned counsel for the petitioner has submitted that the petitioner with her son were forced to leave the matrimonial home. She is now residing with her aged parents at Sivagangai along with her son without any means. She is solely depending on the income of her parents. Her son is studying 3rd standard at St.Joseph's Nursery and Primary School, Manamadurai. In both GWOP and HMOP, the trial is not commenced. She finds it difficult to travel 110 km to conduct the case at Ramanathapuram. 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 petitioner has made all correspondences at Ramanathapuram address and in her affidavit only she stated Manamadurai address. Their son is studying at Manamadurai and his study would not affect the petitioner's appearance in Court, because her parents are looking after him as stated by the petitioner. Moreover, the petitioner has filed M.C.No.18 of 2024 before the Family Court, Ramanathapuram and the same is pending and hence, the petitioner has to travel Ramanathapuram.



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The petitioner has filed these petitions only to stall the proceedings in GWOP and HMOP.

5. Submissions of both side considered. The respondent and the petitioner are husband and wife and out of wedlock they have a son. Due to misunderstanding, they are living separately and it is alleged by the petitioner that she with her son were driven out from the matrimonial home. In such circumstances, the respondent filed the petition in GWOP.No.93 of 2024 before the Family Court, Ramanathapuram, seeking custody of the minor son. The petitioner has filed HMOP.No.78 of 2024 before the Family Court, Ramanathapuram, seeking divorce against the respondent on the ground of cruelty.

6. It is now stated that her son is now studying 3rd standard at St.Joseph's Nursery and Primary School, Manamadurai. The petitioner has produced a photocopy of her son's school ID card. The petitioner has also produced her Aadhaar card copy to show her residence at Manamadurai. These are not disputed by the respondent. Of course, the maintenance case filed by the petitioner is pending at Ramanathapuram which would not be ground for disentitlement of transfer of other matrimonial dispute cases. It is well settled



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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 matrimonial cases, this Court is of the view that the present petitions filed by the wife are to be allowed.

7. In the result, the Transfer Civil Miscellaneous Petitions in Tr.C.M.P. (MD) Nos.57 and 62 of 2025 are allowed. The petitions in G.W.O.P.No.93 of 2024 and H.M.O.P.No.78 of 2024 on the file of Family Court, Ramanathapuram are hereby withdrawn and transferred to the file of the Family Court, Sivagangai for disposal in accordance with law. The learned Judge, Family Court, Ramanathapuram, is directed to transmit the entire records pertaining to the case in G.W.O.P.No.93 of 2024 and H.M.O.P.No.78 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

19.03.2025

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

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To

- 1.The Family Court,
Ramanathapuram.
- 2.The Family Court,
Sivagangai.
- 3.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
Tr.C.M.P(MD)Nos.57 and 62 of 2025
and
CMP(MD)Nos.1717 and 1751 of 2025

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