

Tr.C.M.P(MD)Nos.78, 79, 80 and 81 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.03.2025

Pronounced on : 25.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)Nos.78, 79, 80 and 81 of 2025

and

C.M.P(MD)Nos.1959, 1960, 1961 and 1962 of 2025

Tr.CMP(MD)No.78 of 2025

Balaravindran

... Petitioner

Vs.

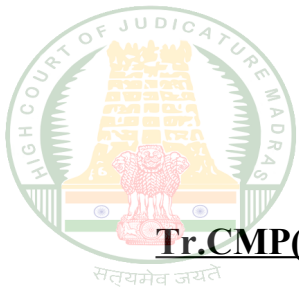
B.Lakshmi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.746 of 2019 pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.R.Sai Aravind

For Respondent : Mr.S.Selva Kumar



Tr.C.M.P(MD)Nos.78, 79, 80 and 81 of 2025

Tr.CMP(MD)No.79 of 2025

WEB COPY Balaravindran

... Petitioner

Vs.

B.Lakshmi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.S.No.84 of 2022 pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.R.Sai Aravind
For Respondent : Mr.S.Selva Kumar

Tr.CMP(MD)No.80 of 2025

Balaravindran

... Petitioner

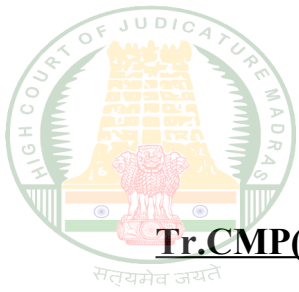
Vs.

B.Lakshmi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.P.No.1391 of 2022 pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.R.Sai Aravind
For Respondent : Mr.S.Selva Kumar



Tr.C.M.P(MD)Nos.78, 79, 80 and 81 of 2025

Tr.CMP(MD)No.81 of 2025

WEB Balaravindran

... Petitioner

Vs.

1. B.Lakshmi
2. Minor S.B.Nitish Dharshan
3. Minor S.B.Sri Harshan

... Respondents

(Minor Respondents 2 and 3 are represented by their mother 1st respondent herein)

(Cause title in respect of R2 & R3 amended as per the order of this Court dated 19.03.2025 made in CMP(MD)No.4854 of 2025 in Tr.CMP(MD)No.81 of 2025)

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the M.C.No.110 of 2024 pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.R.Sai Aravind
For Respondents : Mr.S.Selva Kumar

COMMON ORDER

These Transfer Civil Miscellaneous Petitions are filed seeking for an order to withdraw the HMOP.No.746 of 2019, O.S.No.84 of 2022, O.P.No.1391 of 2022 and M.C.No.110 of 2024 pending on the file of the Family Court, Madurai and to transfer the same to the file of the Family Court, Chennai.



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WEB COP 2. The petitioner is the husband of the respondent. The marriage between the petitioner and the respondent was solemnized on 22.02.2007 at Ettaiyapuram of Thoothukudi district as per Hindu rites and customs. Out of wedlock, they were blessed with two male children named Nithis Dharshan & SriHarshan, who were born on 10.11.2007 and 06.05.2013, respectively. Due to misunderstanding arose between them, they are now living separately. The respondent filed H.M.O.P.No.746 of 2019 and M.C.No.110 of 2024 before the Family Court, Madurai, for divorce and for maintenance. The petitioner has filed O.S.No.84 of 2022 for declaration of settlement deed and mortgage deed as null and void and the properties are his absolute properties and O.P.No.1391 of 2022 for restitution of conjugal rights and which are pending before the Family Court, Madurai. Now, the petitioner/husband has filed these petitions.

3. The learned counsel for the petitioner has submitted that the petitioner is residing at Chennai. The petitioner has filed the petition in O.P.No.2579 of 2021 on the file of the VI Additional Family Court, Chennai, against the respondent for restitution of conjugal rights. He has also filed a suit in O.S.No.237 of 2021 before the VI Additional Principal Family Court, Chennai U/s.7(C) of the Family Courts Act, for the declaration of his properties. The respondent has filed the



Tr.C.M.P(MD)Nos.78, 79, 80 and 81 of 2025

petition in H.M.O.P.No.746 of 2019 on the file of the Family Court, Madurai,

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against the petitioner for divorce. Thereafter, the respondent is also residing at Thirumulaivayal, Chennai from 2020. However, she has filed Tr.C.M.P(MD)Nos.313 of 2021 and 46 of 2022 before this Court for transfer of those proceedings to the Family Court, Madurai by stating that she is residing at Madurai with her parents along with her children. The Tr.C.M.P(MD)Nos.313 of 2021 and 46 of 2022 were allowed by this Court on 03.08.2022 and both the cases in O.P.No.2579 of 2021 and O.S.No.237 of 2021 were transferred from the VI Additional Family Court, Chennai to the Family Court, Madurai and the same were renumbered as O.P.No.1391 of 2022 and O.S.No.84 of 2022. Thereafter, the petitioner has filed the petition in I.A.No.675 of 2021 in H.M.O.P.No.746 of 2019 for visitation rights for his minor children and the same was ordered on 14.12.2022. But the respondent has not obeyed that order. In order to harass the petitioner, the respondent has filed M.C.No.110 of 2024 before the Family Court, Madurai, claiming maintenance of Rs.55,000/- per month. The respondent has averred in M.C.NO.110 of 2024 that she is now working in Govt.College, Thiruvallur and she is residing at Thirumullaivayal and their children are studying at Chennai. The petitioner and the respondent have also filed a Joint Memo in H.M.O.P.No.746 of 2019 before the Family Court, Madurai stating that 'due to the fact that both the parties are residing at Chennai, the respondent



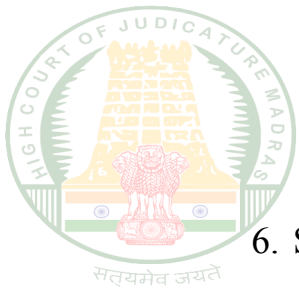
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agrees to hand over interim custody of the children at Padavettamman Temple,

WEB COPY Padi, Chennai as per order, passed in I.A.No.675 of 2021. Therefore, now both parties are residing at Chennai and both parties have to travel to Madurai for attending the cases, which causes hardship to both parties. So, the petitions may be allowed.

4. Per contra, the learned counsel for the respondent filed a common counter and has submitted that the respondent has not averred any false or contra statement in the earlier Transfer petitions. During the relevant time, the respondent was residing at Madurai only. However, the respondent is now staying at Thirumullaivayal in Chennai due to her avocation and also her two children are studying at Chennai only. The petitioner set ex-parte in M.C.No.110 of 2024 and the petitioner filed the petition in Crl.M.P.No.272 of 2024 to set aside the ex-parte order. Therefore, prays for passing suitable order.

5. In reply, the learned counsel for the petitioner submitted that this Court has the power to transfer even an ex-parte set aside petition in the main case by relying on the order of the Principal Seat of Madras High Court in the case of **Kirubasanam Kiruothuvin Saba Vs. T.Ramanathan and Ors.** reported in **MANU/TN/1072/2019.**



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6. Submissions of both sides and citations are considered. The petitioner and the respondent are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, both parties have filed the petitions for divorce and restitution of conjugal rights respectively. In addition, the petitioner/husband has filed a suit for declaration of settlement deed and mortgage deed as null and void and to declare the properties are his absolute properties and the respondent/wife has filed M.C.No.110 of 2024, for maintenance.

7. It is admitted by both parties that the suit for declaration and the petition for restitution of conjugal rights have been transferred from the VI Additional Family Court, Chennai to the Family Court, Madurai as ordered in Tr.C.M.P(MD)Nos.313 of 2021 and 46 of 2022 as the respondent was residing at Madurai at that time. However, now the respondent fairly conceded and admitted that she is residing at Chennai and also she is working in Govt.College, in Thirvallur District and the same were averred by her in M.C.No.110 of 2024 and also made admission in her counter.

8. Though it is contended by respondent that ex-parte set aside petition is pending in M.C.No.110 of 2024, as rightly submitted by the petitioner's counsel



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relying the order of this Court passed in C.R.P(MD)No.1759 of 2013, dated

13.03.2019, this Court has power to transfer the main case along with the petition to set aside the ex-parte order. Therefore, taking note of the admission of the respondent/wife and also considering the above facts and circumstances, I am inclined to allow all these petitions.

9. In the result, these petitions in Tr.CMP(MD)Nos.78, 79, 80 and 81 of 2025 are allowed. The proceedings in HMOP.No.746 of 2019, O.S.No.84 of 2022, O.P.No.1391 of 2022 and M.C.No.110 of 2024 pending on the file of the Family Court, Madurai, are ordered to be withdrawn and the same are transferred to the file of the Family Court, Chennai. The learned Judge, Family Court, Madurai, is directed to transmit the entire records pertaining to the cases in H.M.O.P.No.746 of 2019, O.S.No.84 of 2022, O.P.No.1391 of 2022 and M.C.No.110 of 2024 pending on the file of the Family Court, Madurai to the transferee Court, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

25.04.2025

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



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To

1. The Family Court,
Madurai.
- 2.The Family Court,
Chennai.
- 5.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.78, 79, 80 and 81 of 2025
and
C.M.P(MD)Nos.1959, 1960, 1961 and 1962 of 2025

25.04.2025