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Tr.C.M.P(MD)No.108 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.04.2025

Pronounced on : 24.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.108 of 2025

and

C.M.P(MD)No.2648 of 2025

Kaleeswari @ Ranjani

... Petitioner

Vs.

Azhagaperumal @ Sakthi

... Respondent

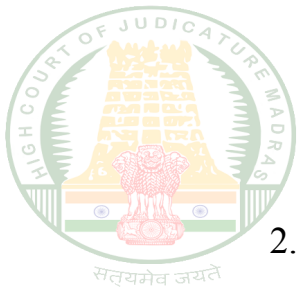
PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the case in H.M.O.P.No.825 of 2019 pending on the file of the Family Court, Coimbatore to the Sub Court, Keeranur.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.C.Muthu Saravanan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in HMOP.No.825 of 2019 on the file of the Family Court, Coimbatore and to transfer the same to the file of the Sub Court, Keeranur.



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2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 04.09.2017 as per Hindu religious rites and customs. Out of wedlock, they have been blessed with a female child, who was born on 27.07.2018. Due to misunderstanding, they are living separately. Thereafter, the respondent filed the petition for divorce against the petitioner and the same is now pending as H.M.O.P.No.825 of 2019 on the file of the Family Court, Coimbatore.

3. The learned counsel for the petitioner has submitted that the respondent went to Coimbatore for his work, leaving the petitioner and her child in her parental home. After childbirth, the respondent and his family members harassed the petitioner by saying that the petitioner gave birth to a girl child. The petitioner is living with her aged parents at Kattupatti of Puthur Post, Pudukottai District. The petitioner is living without sufficient means. Hence, the petitioner has filed M.C.No.14 of 2019 before the District Munsif-cum-Judicial Magistrate Court, Ponnamaravathi. The petitioner is unable to travel 220 km to attend the Court at Coimbatore.

4. The learned counsel for the respondent filed a counter along with typed set of papers and vehemently objected the petition. The learned counsel



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further submitted that the petitioner has already filed three transfer petitions and the same were dismissed by this Court. Firstly, Tr.C.M.P(MD)No.326 of 2019 filed by the petitioner was 'dismissed for non prosecution' on 11.11.2019. Secondly, after three years again she filed Tr.C.M.P(MD) No.668 of 2022 and the same was dismissed on 21.02.2023 as not maintainable with liberty to restore the previous petition. Hence, thirdly, she filed the petition in C.M.P(MD)No.14144 of 2023 to condone the delay of 683 days to restore Tr.C.M.P(MD)No.326 of 2019. During that, the petitioner was set ex-parte in the main divorce petition and posted for ex-parte evidence. Therefore, this Court passed the order on 20.03.2024, directing the petitioner to file an appropriate application before the concerned Court and only thereafter to move this Court, as the cause of action sought before this Court does not survive. The petitioner has not taken any steps as directed. Now the main petition is posted for passing orders. Suppressing the above facts, the petitioner has moved this Court and therefore, this petition is not maintainable and is prayed for dismissal.

5. In reply, the petitioner's counsel submitted that the petitioner has filed the petition in I.A.No.2 of 2025 before the trial Court and the same was allowed on 19.05.2025 and so, the main petition has been reopened.



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He further submits that the convenience of the wife has to be favoured in the matter of matrimonial cases.

6. I have carefully considered the arguments of both sides and also perused the records.

7. On hearing both sides and on perusal of records, it is clear that the petitioner and the respondent are living separately and they are blessed with one child. It is also clear that the respondent has filed the petition in HMOP.No.825 of 2019 before the Family Court, Coimbatore, for divorce and the petitioner has filed M.C.No.14 of 2019 before the District Munsif-cum-Judicial Magistrate Court, Ponnamaravathi. It is also very clear that the petitioner has already filed two transfer petitions in Tr.C.M.P(MD)No.326 of 2019 and Tr.C.M.P.(MD) No.668 of 2022 before this Court, which were dismissed. Thereafter, in view of the observation made by this Court, the petitioner has filed the petition in C.M.P(MD)No.14144 of 2023 to condone the delay of 683 days to restore the previous Tr.C.M.P(MD)No.326 of 2019, which was 'dismissed for non prosecution' on 11.11.2019. As it was brought to notice by the respondent's side that the main divorce petition was posted for ex-parte evidence, the delay condone petition came to be dismissed with



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liberty to the petitioner to file an appropriate petition before the appropriate Court and then to move this Court.

8. On perusal of this petition and also during the course of arguments, these facts are not disclosed by the petitioner's side. It is settled position that a litigant must move the Court with clean hands and also without suppression of facts. Though it is settled principle that the wife's convenience is predominantly looked into, the present petition lacks merit for suppression of material facts. Moreover, the main petition for divorce has been pending for more than five years and the petitioner is filing the petition at her own whims and fancies. Therefore, in the above facts and circumstances, this Court is of the considered view that this petition lacks merit and the same deserves dismissal.

9. In the result, this Transfer Civil Miscellaneous Petition is dismissed.
No costs. Consequently, the connected Miscellaneous Petition is closed.

24.06.2025

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



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P.VADAMALAI, J.

VSD

To

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

Pre - Delivery Order made in
Tr.C.M.P(MD)No.108 of 2025
and
C.M.P(MD)No.2648 of 2025

24.06.2025