

WEB COPY



Tr.C.M.P(MD)No.115 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.04.2025

Pronounced on : 05.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.115 of 2025

and

C.M.P(MD)No.2793 of 2025

S.Indiragandhi

... Petitioner

Vs.

V.Annamalai

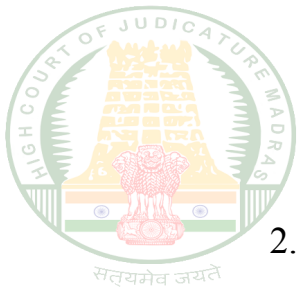
... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.237 of 2024 on the file of the Sub Court, Kanchipuram and transfer the same to the Sub Court, Kumbakonam.

For Petitioner : Mr.P.Muthusamy
For Respondent : Mr.V.Karuna

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the H.M.O.P.No.237 of 2024 pending on the file of the Sub Court, Kanchipuram and to transfer the same to the file of the Sub Court, Kumbakonam.

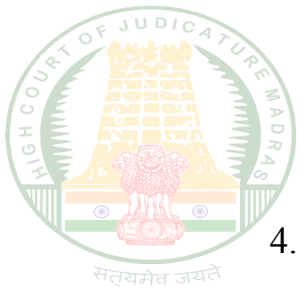


Tr.C.M.P(MD)No.115 of 2025

WEB COPY

2. The petitioner is the wife of the respondent. Their marriage was solemnized on 12.09.2022 as per Hindu rites and rituals at Utthukadu Ellamman Temple, Utthukadu Village, Kanchipuram District. Due to misunderstanding, the petitioner and the respondent are living separately. The respondent has filed the petition in H.M.O.P.No.237 of 2024 before the Sub Court, Kanchipuram, against the petitioner for divorce. The petitioner is residing at Thanjavur District. Hence, the petition is filed.

3. The learned counsel for the petitioner has submitted that the respondent is practicing advocate. The respondent and his family members started to harass and threaten the petitioner by demanding more dowry, she was forced to leave the matrimonial home. Then, the petitioner lodged a complaint before the All Women Police Station, Thanjavur. In order to escape from liability, the respondent filed the petition for divorce before the Sub Court, Kanchipuram. Now, the petitioner is residing with her sister at Thanjavur. The petitioner has now enrolled as advocate and started practice before the District Court, Thanjavur. The petitioner, being a lady and has no sufficient means, finds it difficult to travel 450 km to attend the Court at Kanchipuram. So, the petition may be allowed.



Tr.C.M.P(MD)No.115 of 2025

WEB COURT

4. Per contra, the learned counsel for the respondent objected the petition. The learned counsel further submitted that the respondent became heart patient because of the activities of the petitioner. The respondent was fixed stent. Both the petitioner and the respondent are well educated and are practicing advocates. So, the petitioner can able to attend the Court at Kanchipuram, whereas the respondent was advised not to travel a long distance. Therefore, the petition may be dismissed. The respondent's counsel relied on the order of the Hon'ble Supreme Court passed in **Transfer Petition (Civil) No.2949 of 2022 (Brijal Mehul Shah vs. Mehul Kumudbhai Shah)**.

5. Submissions of both sides and citations are considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the petition for divorce. Both the petitioner and the respondent are practicing advocates. Though as per citation relied on by the respondent, it is stated that the wife, being working as journalist, the transfer was denied. It is settled position that each and every case has to be considered independently upon the facts and circumstances stated therein. The petitioner states that she enrolled as advocate just now and also staying with her sister at Thanjavur. It is well settled proposition of law by the Hon'ble Supreme Court



Tr.C.M.P(MD)No.115 of 2025

WEB COPY

in catena cases 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. The petitioner is also advised not to travel long distances, as per her discharge summary. Moreover, the petitioner seeks to transfer the case to the Sub Court, Kumbakonam, from Sub Court, Kanchipuram. Therefore, the presence of the parties before the Sub Court in all hearings need not be required except material hearing or direction of the court. The order relied on by the respondent is not applicable to the facts of this case. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases and also considering the submissions of both sides, this Court is of the view that the present petition filed by the wife is to be allowed and this Court is inclined to transfer H.M.O.P.No.237 of 2024 from the Sub Court, Kanchipruam to the Sub Court, Kumbakonam.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.237 of 2024 on the file of the Sub Court, Kanchipuram, is hereby withdrawn and transferred to the file of the Sub Court, Kumbakonam, for disposal in accordance with law. The learned Subordinate Judge, Kanchipuram, is directed to transmit the entire records pertaining to the



Tr.C.M.P(MD)No.115 of 2025

case in H.M.O.P.No.237 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 Petition is closed.

05.06.2025

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

To

- 1.The Sub Court,
Kanchipuram.
- 2.The Sub Court,
Kumbakonam.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P(MD)No.115 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)No.115 of 2025
and
C.M.P(MD)No.2793 of 2025

05.06.2025