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Tr.C.M.P(MD)No.162 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.04.2025

Pronounced on : 18.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.162 of 2025

and

C.M.P(MD)No.4059 of 2025

R.Gnanasekaran

... Petitioner

Vs.

Ratchitha

... Respondent

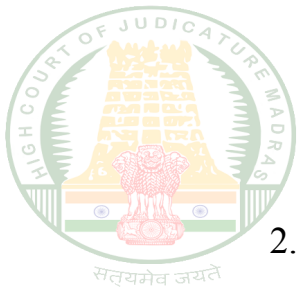
PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer H.M.O.P.No.280 of 2023 on the file of the Sub Court, Kovilpatti to the file of the Sub Court, Aruppukkottai.

For Petitioner : Mr.A.Karthik

For Respondent : Mr.Aayiram K.Selvakumar

ORDER

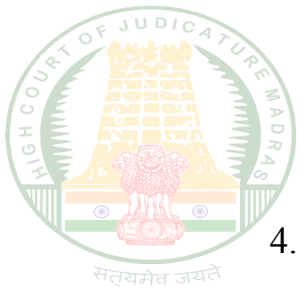
This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in H.M.O.P.No.280 of 2023 on the file of the Sub Court, Kovilpatti and to transfer the same to the file of the Sub Court, Aruppukkottai.



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2. The petitioner herein is the husband of the respondent. The marriage between the petitioner and the respondent was solemnized on 10.07.2016 at Pandhalkudi, Virudhunagar District. Out of wedlock, they have been blessed with a male child, namely Lalithesh, who was born on 22.11.2017. Due to misunderstanding, they are living separately. Thereafter, the respondent has filed the petition in H.M.O.P.No.280 of 2023 before the Sub Court, Kovilpatti, against the petitioner for divorce and the same is pending.

3. The learned counsel for the petitioner has submitted that the petitioner was working at China at the time of marriage, the respondent wanted to live lavish life. The respondent prevented him to spend money for his mother's treatment. As his mother was in her final days, he resigned job at China and got a job at Chennai. The respondent refused to live with him and went to her parental home and later filed the petition for divorce. The petitioner is now suffering from spinal cord injuries and cerebral atrophy. The doctor advised him to take physiotherapy continuously and the petitioner is taking treatment at Mayopathy Kappagam. Knowing this fact, the respondent has filed the petition for divorce. The petitioner is unable to travel and walk long time. Hence, the petitioner filed the petition for transfer of divorce petition.



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4. The learned counsel for the respondent filed a counter and submitted

that the petitioner is having the disease as mentioned by him, which is curable one. The respondent is maintaining her male child. The respondent gave evidence as P.W.1 in the divorce petition and is pending for further evidence. The divorce petition is not pending before the Family Court, it is pending only before the Sub Court, so the petitioner's presence in all hearings is not necessary. The distance between the petitioner's residence and Kovilpatti is only 59 km. Hence, the petition may be dismissed.

5. Submissions of both side considered. The petitioner and the respondent are spouses. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the petition in H.M.O.P.No. 280 of 2023 on the file of the Sub Court, Kovilpatti, for divorce. The petitioner mainly seeks transfer of case on the ground that he is suffering from spinal cord injuries and is taking physiotherapy treatment. The petitioner himself, in his affidavit, stated that the doctor stated that the disease is curable. The MRI scan report is filed, which was taken from 2017. On perusal of reports, there is no specific instruction that the petitioner should not travel long distance. As rightly argued by the respondent's counsel petition for divorce is pending before the Sub Court, therefore, his presence is not



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necessary in all hearings except material hearing or direction by the Court. The petitioner has not denied that the main petition is pending for evidence stage, as the respondent was examined as P.W.1. It is admitted that the respondent is living along with her male child at Vilathikulam Taluk, along with the respondent's parents. It is well settled proposition of law by 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, considering the above facts and circumstances, this Court is of the view that the petition has no merit and the same is liable to be dismissed.

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

No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

18.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD

To

1.The Sub Court, Kovilpatti.

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
Tr.C.M.P(MD)No.162 of 2025
and
C.M.P(MD)No.4059 of 2025

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