



Tr.C.M.P(MD)No.157 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.04.2025

Pronounced on : 17.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.157 of 2025

G.Chitra

... Petitioner

Vs.

D.Ajay

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceedings in H.M.O.P.No.333 of 2024 pending on the file of the Principal Sub Court, Kumbakonam and transfer the same to the Additional Sub Court, Kumbakonam and further direct the Additional Sub Court, Kumbakonam and to try both H.M.O.P.No.333 of 2024 filed by the respondent and H.M.O.P.No. 340 of 2023 filed by myself together.

For Petitioner : Mr.A.Mohamed Ismail

For Respondent : Ms.J.Maria Roseline



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in H.M.O.P.No.333 of 2024 pending on the file of the Principal Sub Court, Kumbakonam and to transfer the same to the file of the Additional Sub Court, Kumbakonam, to try along with HMOP.No.340 of 2023.

2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 03.02.2021 at Kumbakonam. Due to misunderstanding that arose between them, they are living separately. The respondent has filed H.M.O.P.No.333 of 2024 on the file of the Principal Sub Court, Kumbakonam, for divorce. The petitioner has filed H.M.O.P.No.340 of 2023 on the file of the Additional Sub Court, Kumbakonam, for restitution of conjugal rights. Hence, the petitioner has filed this petition.

3. The learned counsel for the petitioner has submitted that the respondent filed HMOP.No.561 of 2023 on the file of the Sub Court, Alandur, for divorce. The petitioner filed HMOP.No.340 of 2023 on the file of the Additional Sub Court, Kumbakonam, for restitution of conjugal rights.



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Thereafter, the petitioner filed Tr.CMP.No.161 of 2024 before the High Court of Madras to transfer HMOP.No.561 of 2023 to the Principal Sub Court, Kumbakonam. Accordingly, that petition was allowed on 06.09.2024 and the case was transferred to the Principal Sub Court, Kumbakonam and renumbered as HMOP.No.333 of 2024. In fact, the earlier transfer petition was filed for joint trial and for passing common order in HMOP.No.340 of 2023 and in HMOP.No.333 of 2024 (originally filed as HMOP.No.561 of 2023 of the Sub Court, Alandur). But in Tr.CMP.No.161 of 2024, the petitioner inadvertently mentioned that as to transfer HMOP.No.561 of 2023 of the Sub Court, Alandur, to the Principal Sub Court, Kumbakonam instead of the Additional Sub Court, Kumbakonam. Therefore, this petition is filed for transfer of the renumbered HMOP.No.333 of 2024 from the Principal Sub Court, Kumbakonam, to the Additional Sub Court, Kumbakonam.

4. The learned counsel for the respondent has not raised any strong objection. The learned counsel has admitted the facts stated by the petitioner and submitted that the petition may be allowed without prejudice to his case.

5. I have heard both sides arguments and considered the same. Both sides admitted the petitions filed for restitution of conjugal rights and for



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divorce by the respective parties and that both are pending before the different Courts. On perusal of records particulars, the case status filed by the petitioner along with typed set of papers, the petition in HMOP.No.340 of 2023 is pending before the Additional Subordinate Court, Kumbakonam. While the petitioner earlier moved before the Principal Seat of Madras High Court has been stated that she inadvertently mentioned as HMOP.No.340 of 2023 was pending before the Principal Sub Court, Kumbakonam, as that Court is the filing authority. The reason stated by the petitioner is accepted since there is no objection on the respondent's side. However, in view of no objection stated by the respondent and also the fact that the earlier order was passed for clubbing both cases and to dispose of the same by recording evidence in common and in the interest of justice, this Court is inclined to allow this petition.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.333 of 2024 pending on the file of the Principal Subordinate Court, Kumbakonam, is hereby withdrawn and transferred to the file of the Additional Sub Court, Kumbakonam, for joint trial along with HMOP.No.340 of 2023 and for disposal in accordance with law. The learned Principal Subordinate Judge, Kumbaokonam, is directed to transmit the entire



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records pertaining to the case in H.M.O.P.No.333 of 2024 to the transferee

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Court, within a period of two weeks from the date of receipt of a copy of this

order. No costs.

17.06.2025

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

To

- 1.The Principal Subordinate Court,
Kumbakonam.
- 2.The Additional Sub Court,
Kumabonam.
- 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
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