

Tr.CMP(MD)No.170 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.04.2025

Pronounced on : 16.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.CMP(MD)No.170 of 2025

and

C.M.P(MD)No.4216 of 2025

P.Vijayalakshmi

... Petitioner

Vs.

P.Raghuraman

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the FCOP.No.331 of 2018 pending on the file of the Family Court, Erode and to transfer the same to the Family Court, Sivagangai or any other Court for disposal of the same on merits in accordance with law.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondent : Mr.A.Saravanan



Tr.CMP(MD)No.170 of 2025

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ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the F.C.O.P.No.331 of 2018 pending on the file of the Family Court, Erode and to transfer the same to the file of the Family Court, Sivagangai.

2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 29.05.2017 at Mullai Hall, Club Milange Hotel, Erode. Due to misunderstanding, they are living separately. It is further alleged that since the respondent and his family members harassed the petitioner and subjected to mental torture, she was forced to leave the matrimonial home and she is now residing in her maternal house. Thereafter, the respondent filed a petition in F.C.O.P.No.331 of 2018 before the Family Court, Erode for divorce.

3. The learned counsel for the petitioner has submitted that since the petitioner intended to lead matrimonial life, the petitioner filed H.M.O.P.No.43 of 2020 before the Family Court, Sivagangai, against the respondent for restitution of conjugal rights. Though that petition was allowed on merits, the respondent preferred the Civil Miscellaneous Appeal and the same is pending before this

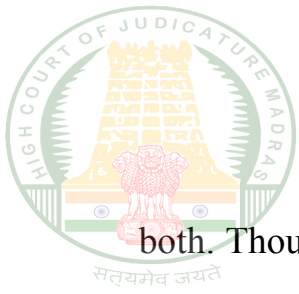


Tr.CMP(MD)No.170 of 2025

Court. In order to harass the petitioner further, the respondent wantonly filed the petition in F.C.O.P.No.331 of 2018, for divorce. The petitioner is living lonely and her parents are no more. The respondent is not paying maintenance and hence the petitioner filed an interlocutory petition seeking for maintenance from the respondent in that F.C.O.P.No.331 of 2018. The petitioner finds it difficult to attend the Court at Erode by travelling 440 km. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition and the same may be allowed.

4. The learned counsel for the respondent objected the petition. The learned counsel further submitted that in the main petition on the respondent's side, P.W.1 and P.W.2 were examined and the same is listed for orders. There is no Interlocutory Application pending as stated by the petitioner. Therefore, the petitioner cannot seek to transfer the main petition since the same is pending for orders.

5. I have carefully considered both sides arguments. It is admitted that the parties are legally wedded spouses, however, they are living separately due to misunderstanding. The other allegations cannot be decided in this petition and the same have to be adjudicated by the trial Court based on evidences adduced by



Tr.CMP(MD)No.170 of 2025

both. Though the petitioner filed the petition for conjugal rights and the same was

allowed, the respondent filed a petition for divorce and the same is pending.

The petitioner filed a copy of interim petition seeking maintenance from the respondent and also copy of case history. It is clear from the records that the interim petition for maintenance is pending and the main petition is listed for orders as stated by the respondent. It is also admitted that the parents of the petitioner are now no more and she is residing in her maternal home. It is well settled proposition by the Hon'ble Supreme Court in a catena of 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 should be given preference. Therefore, considering the convenience of both parties and other circumstances, this Court is inclined to allow this petition, granting transfer as sought by the petitioner.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in F.C.O.P.No.331 of 2018 pending on the file of the Family Court, Erode, is hereby withdrawn and transferred to the file of the Family Court, Sivagangai, for disposal in accordance with law. The learned Judge, Family Court, Erode, is directed to transmit the entire records pertaining to the case in F.C.O.P.No.331 of 2018 to the transferee Court, within a period of two weeks



Tr.CMP(MD)No.170 of 2025

from the date of receipt of a copy of this order. No costs. Consequently, the

connected Miscellaneous Petition is closed.

16.06.2025

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

To

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



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Tr.CMP(MD)No.170 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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