



WEB COPY



Tr.C.M.P(MD)No.179 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.04.2025

Pronounced on : 18.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.179 of 2025

Senthilkumar

... Petitioner

Vs.

Usha

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw the G.W.O.P.No.122 of 2023 on the file of the I Additional District and Sessions Court, Madurai and to transfer the same to the Family Court, Madurai to try along with H.M.O.P.No.32 of 2024.

For Petitioner : Mr.M.S.Parthiban

For Respondent : Ms.Jeena Rita David



Tr.C.M.P(MD)No.179 of 2025

ORDER

WEB COPY

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the G.W.O.P.No.122 of 2023 on the file of the I Additional District and Sessions Court, Madurai and to transfer the same to the file of the Family Court, Madurai to try along with H.M.O.P.No.32 of 2024.

2. The petitioner is the husband of the respondent. The marriage between the petitioner and the respondent was solemnized on 09.07.2008 as per Hindu rites and customs. Out of wedlock, they have been blessed with two children, namely Varunesh, who was born on 02.12.2009 and Hamsita who was born on 20.10.2011. Due to misunderstanding, the petitioner and the respondent are living separately. The petitioner has filed a petition in H.M.O.P.No.32 of 2024 before the Family Court, Madurai, against the petitioner for divorce. The petitioner has also filed the petition in G.W.O.P.No.122 of 2023 before the I Additional District and Sessions Court, Madurai. Hence, the petition is filed.

3. The learned counsel for the petitioner has submitted that the petitioner is working at private concern with meager salary. The respondent has filed DVC.No.31 of 2023 before the Additional Mahila Court, Madurai, seeking maintenance. She has also filed M.C.No.45 of 2023 before the Family Court,



Tr.C.M.P(MD)No.179 of 2025

Madurai, praying for maintenance. The respondent has filed the said two cases after filing of divorce petition and GWOP by the petitioner. Since the petitioner is working in a private company, he is struggling hard to maintain himself and his parents and he also finds it very difficult to attend the cases in different Courts. So, the petition may be allowed. In support of his case, the petitioner has relied on the order passed by the Principal Seat of Madras High Court in Tr.CMP.No.764 of 2022, dated 22.12.2022.

4. Per contra, the learned counsel for the respondent filed a counter and objected the petition. The learned counsel further submitted that the petitioner had already filed H.M.O.P.No.287 of 2021 and since the respondent filed an interlocutory petition U/s.24 of the Hindu Marriage Act for maintenance, he had withdrawn that petition and filed the present two petitions, namely GWOP.No.122 of 2023 and H.M.O.P.No.32 of 2024. The petitioner has not paid any money to the respondent towards maintenance for herself and her children. Hence, the respondent was constrained to file DVOP.No.31 of 2023 before the Additional Mahila Court, Madurai and M.C.No.45 of 2023 before the Family Court, Madurai. Though the matter has been referred to the mediation centre, no settlement was arrived at. Hence, maintenance may be ordered while considering transfer.



Tr.C.M.P(MD)No.179 of 2025

WEB COPY 5. In reply, the learned counsel for the petitioner would submit that the respondent's family is doing business and they are wealthy family.

6. The arguments put forth by both sides considered and records perused. The petitioner and the respondent are spouses. Out of wedlock, they are having two children. Due to misunderstanding, they are living separately. In such circumstances, the petitioner has filed the petition in H.M.O.P.No.32 of 2024 before the Family Court, Madurai, for divorce against the respondent. He has also filed GWOP.No.122 of 2023 on the file of the I Additional District and Sessions Court, Madurai, for appointing him as legal guardian of his minor children. The respondent is residing at Madurai with her parents, along with her children. She has also filed M.C.No.45 of 2023 before the Family Court, Madurai, as well as DVOP No.31 of 2023 before the Additional Mahila Court, Madurai. So, all cases are pending in Madurai, but in different Courts. At this juncture, the petitioner says that he is working at private concern and so he finds it very difficult to attend the Courts by applying for frequent leave. The submission of the petitioner is acceptable one. Since the spouses are residing in Madurai, the convenience of the wife need not be considered. Moreover, M.C.No.45 of 2023 filed by the respondent is also pending before the Family Court, Madurai.



Tr.C.M.P(MD)No.179 of 2025

Therefore, considering the above facts and circumstances, this Court is inclined to

allow this petition.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in G.W.O.P.No.122 of 2023 on the file of the I Additional District and Sessions Court, Madurai, is hereby withdrawn and transferred to the file of the Family Court, Madurai, to try along with H.M.O.P.No.32 of 2024 and for disposal in accordance with law. The learned I Additional District and Sessions Judge, Madurai, is directed to transmit the entire records pertaining to the case in G.W.O.P.No.122 of 2023 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs.

18.06.2025

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

To

1.The I Additional District and Sessions Court,
Madurai.

2.The Family Court, Madurai.

3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

5/6



WEB COPY



Tr.C.M.P(MD)No.179 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)No.179 of 2025

18.06.2025