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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2025

CORAM

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

Tr.CMP.(MD)No.182 of 2025

and

C.M.P.(MD)No.4742 of 2025

K.Indumathi

.. Petitioner

Vs.

Prabakaran

.. Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.259 of 2024 from the file of the learned Judge, Subordinate Court, Thirumangalam, Madurai District and to transfer the same to the Family Court, Tirunelveli.

For Petitioner : Mr.B.N.Raja Mohamed

For Respondent : No Appearance

ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case case in H.M.O.P.No.259 of 2024 from the file of the learned Judge, Subordinate Court, Thirumangalam, Madurai District and to transfer the same to the Family Court, Tirunelveli

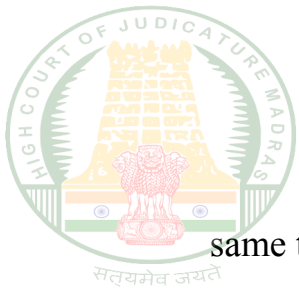


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2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 02.08.2021 at M.A.K.T.Thirumana Mahal, at Peraiyur Road, Usilampatti Taluk, Madurai District as per the Hindu Rites and Customs. During their wedlock, a female child was born on 11.06.2022 at C.A.Joseph Bethel Nursing Home, Tirunelveli Town.

3. Due to some matrimonial discord, the parties have separated. Thereafter, the petitioner/wife filed a Maintenance Petition in M.C.No.38 of 2024. At this juncture, the respondent/husband initiated a proceedings in H.M.O.P.No.259 of 2024, on the file of the learned Judge, Subordinate Court, Thirumangalam, Madurai District, seeking restitution of conjugal rights.

4. The learned counsel appearing for the petitioner/wife submits that his client has one female child and she along with her child are residing at her parents house and they are taken care of by her parents. The distance between the petitioner's hometown i.e., Tirunelveli to Madurai is around 160 Kms, and being a lady, she finds it difficult to travel such a long distance for attending every Court hearing. Hence, she seeks transfer of proceeding in H.M.O.P.No.259 of 2024 from the file of the learned Subordinate Judge, Thirumangalam, Madurai District and to transfer the



same to the Family Court, Tirunelveli.

WEB COPY 5. The learned counsel for the respondent requested this Court to fix a central place convenient for both the parties.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on records.

7. In the case of ***N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha*** reported in ***2022 Live Law (SC) 627***, the Hon'ble Supreme Court has dealt with the position generally, that it is the wife's convenience, which must be looked into while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :-

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”, the bench observed.”



WEB COPY 8. It is also well settled proposition of law that whenever a 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.

9. Considering the overall facts and circumstances of the case and also taking into account of the inconvenience expressed by the petitioner in attending every court hearing, by travelling 5 hour journey to reach the learned Subordinate Judge, Thirumangalam Madurai District, situated 160 kms away from her Domicile, namely, V.M.Chatram, Palayamkottai, incurring huge expense, this court inclines to allow the petition.

10. The learned Subordinate Judge, Thirumangalam, Madurai is hereby directed to transfer the entire records pertaining to the case in H.M.O.P.No.259 of 2024 to the Family Court, Tirunelveli within a period of four weeks from the date of receipt of a copy of this order, and on receipt of such records, the learned Family Court Judge, Tirunelveli is directed to take the case on file and dispose of the case as expeditiously as possible in accordance with law.



WEB COPY 11. Accordingly, this Transfer Civil Miscellaneous Petition stands allowed. There shall be no order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

05.06.2025

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation: Yes/No
rgm

To

1. The Subordinate Court, Thirumangalam.
2. The Family Court, Tirunelveli.



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K.K. RAMAKRISHNAN, J.

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