

Tr.C.M.P(MD)No.176 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.04.2025

Pronounced on : 24.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.176 of 2025

and

C.M.P(MD)No.4321 of 2025

Nivetha

... Petitioner

Vs.

S.Venkatesh Kumar

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.86 of 2025 on the file of the Family Court, Theni and transfer the same to the Family Court, Virudhunagar at Srivilliputhur and try along with H.M.O.P.No.30 of 2025 on the file of the Family Court, Virudhunagar at Srivilliputtur.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.R.Shankar Ganesh



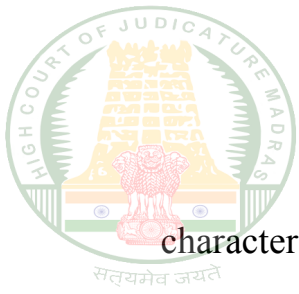
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ORDER

WEB COPY This Transfer Civil Miscellaneous Petition is filed seeking an order to withdraw H.M.O.P.No.86 of 2025 from the file of the Family Court, Theni and to transfer the same to the file of the Family Court, Virudhunagar at Srivilliputhur to be jointly tried with H.M.O.P.No.30 of 2025.

2. The petitioner herein is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 05.12.2024 at Srivilliputhur as per Hindu rites and customs. Within short span of period after marriage, a dispute arose between the spouses, and they are living separately. Thereafter, the petitioner has filed H.M.O.P.No.30 of 2025 on the file of the Family Court, Srivilliputhur, for restitution of conjugal rights against the respondent. The respondent has filed the petition in H.M.O.P.No.86 of 2025 before the Family Court, Theni. Both petitions are pending for enquiry. At this stage, the petitioner has filed this present petition for transfer.

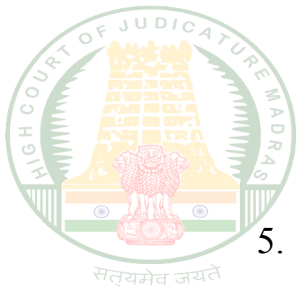
3. The learned counsel for the petitioner has submitted that after marriage, the respondent deserted the petitioner without any valid reason. The marriage was not consummated and they have no child. The respondent has stated false allegations in H.M.O.P.No.86 of 2025 against the petitioner, questioning her



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character, which are vehemently denied by the petitioner. She solely depends on her parents and she finds it very difficult to travel 250 km up and down to attend the Court at Theni. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition for transfer of H.M.O.P.No.86 of 2025 from the Family Court, Theni to the Family Court, Virudhunagar at Srivilliputhur to be tried along with H.M.O.P.No.30 of 2025.

4. The learned counsel for the respondent filed a counter and objected the petition. The petitioner has been affected by epilepsy. The learned counsel further submitted that the petitioner has illegal relationship with her father for the past 9 years and there was such relationship even 10 days prior to marriage, which he came to know from the petitioner herself. While the respondent questioned the immoral activities of the petitioner and her father, they informed the respondent to marry someone. The petitioner left the matrimonial home and is living with her parents. The wife in matrimonial cases is taking advantage of leniency for transfer and the appearance of parties in the Family Court can be dispensed with and so the respondent has no serious objection to transfer the case if the appearance of the respondent is dispensed with. In support of his submission, the learned counsel for the respondent relied on the citations reported in **(2006) 9 Supreme Court Cases 197 and 2025 1 Law Weekly 593.**



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5. Submissions of both side considered. It is not disputed that the

marriage between the parties was solemnized as per Hindu rites and customs and they have been living separately with short span of period after marriage. It is alleged by the petitioner that she was deserted by the respondent. Whereas the respondent alleged that the petitioner has illegal relationship with her own father, which he came to know from the petitioner herself. However, these rival allegations cannot be decided in this petition, which is filed with limited prayer for transfer. The allegations can be decided by the trial Court after adducing evidences by both parties.

6. It is well settled proposition of law by the number of decisions of 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. Moreover, the respondent himself admitted that the petitioner has been affected by epilepsy. However, during the course of argument on the respondent's side, there is no objection to transfer the case from Theni to Srivilliputhur, if the respondent's personal appearance is dispensed with in the Family Court, Srivilliputhur, as held by this Court in **2025 1 Law Weekly 593 (Nanda Kishore Kolluru vs. Madhulika Maddipudi)**. Therefore, taking note of the



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settled position of the convenience of the wife in matrimonial cases and also submissions made by the respondent, this Court is of the view that the present petition filed by the wife is to be allowed, however, with certain conditions.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.86 of 2025 on the file of the Family Court, Theni, is hereby withdrawn and transferred to the file of the Family Court, Virudhunagar at Srivilliputhur for joint trial along with H.M.O.P.No.30 of 2025 and for disposal in accordance with law. The learned Judge, Family Court, Theni, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.86 of 2025 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. The personal appearance of the respondent is dispensed with before the Family Court, Virudhunagar @ Srivilliputhur, except on the date specifically mentioned for appearance by the Judge of that Court. No costs. Consequently, the connected Miscellaneous Petition is closed.

24.06.2025

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



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To

- 1.The Family Court,
Theni.
- 2.The Family Court,
Virudhunagar at Srivilliputhur.
- 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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