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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.195 of 2025

and

C.M.P.(MD)No.5009 of 2025

R.Monisha

... Petitioner

Vs.

C.Yespee

... Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the original petition in H.M.O.P.No.137 of 2024 on the file of the learned Subordinate Judge, Sattur and transfer the same to the competent court in Theni District.

For Petitioner : Mr.K.Muthu Ganesa Pandian

For Respondent : Mr.C.M.Arumugam

ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the original petition in H.M.O.P.No.137 of 2024 on the file of the learned Subordinate Judge, Sattur and transfer the same to the competent court in Theni District.



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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 01.06.2022 at NPM Mahal, Theni District, as per the Hindu Rites and Customs. During their wedlock, a female child was born on 19.03.2023.

3. Due to some matrimonial discord, the parties have separated. Therefore, the respondent/husband initiated a proceeding in H.M.O.P.No.137 of 2024, on the file of the Sub Court, Sattur, seeking divorce.

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 hometown Theni and they are taken care of by her parents. The distance between her hometown to Virudhunagar is around 100 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.137 of 2024 from the file of the learned Subordinate Judge, Sattur to the file of the Competent Court, Theni District.

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.



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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.”

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.



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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 more than 2 hour journey to reach the learned Subordinate Judge, Sattur, situated 100 kms away from her Domicile, namely, Allinagaram, Theni Town, Theni District, incurring huge expense, this court inclines to allow the petition.

10. The learned Subordinate Judge, Sattur is hereby directed to transfer the entire records pertaining to the case, in H.M.O.P.No.137 of 2024, to the file of the Competent Court, Theni District within a period of four weeks from the date of receipt of a copy of this order, and on receipt of such records, the Competent Court, Theni is directed to take the case on file and dispose of the case as expeditiously as possible in accordance with law.

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
(2/2)

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

1. The Family Court, Theni District
2. The Subordinate Judge, Sattur Virudhunagar District



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K.K. RAMAKRISHNAN, J.

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