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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.201 of 2025

and

C.M.P.(MD)No.5068 of 2025

Mrs.J.Gayathiri

.. Petitioner

Vs.

Atchaya

.. Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in H.M.O.P. No.190 of 2024 on the file of the Hon'ble Subordinate Court at Athur, Salem District and transfer the same to the file of the Hon'ble Subordinate Court at Thanjavur.

For Petitioner : Mr.A.K.Gopalan

For Respondent : Mr.N.Mohan



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ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the proceeding in H.M.O.P.No.190 of 2024, on the file of the Subordinate Court at Athur, Salem District, and transfer the same to the file of the Subordinate Court at Thanjavur.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 06.06.2008 at Attur Kottai Eswaran Temple, Salem District, as per the Hindu Rites and Customs. During their wedlock, two male children, namely Indrajith and Sathyajith were born on 15.10.2010 and 09.11.2016 respectively.

3. Due to some matrimonial discord, the parties have separated. Therefore, the respondent/husband initiated a proceeding in H.M.O.P.No. 190 of 2024, on the file of the Subordinate Court, Athur, Salem District, seeking divorce.



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4. The learned counsel appearing for the petitioner/wife submits that his client has two children and she is living in Valloondanpattu, Thanjavur District, and they are taken care of by their maternal uncle. The distance between the petitioner's village to Salem is around 250 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.190 of 2024 from the file of the subordinate Court, Athur, Salem District to the file of the Subordinate Court at Thanjavur.

5. The learned counsel for the respondent requested this Court to fix a central place convenient for both the parties and further, requested to transfer the case to Perambalur, which is the centre place for both the petitioner and the respondent.

6. Heard the learned counsel appearing for 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.”



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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 considering the convenience of the wife, this Court is inclined to allow the petition.

10. The learned Subordinate Judge, Athur, Salem District, is hereby directed to transfer the entire records pertaining to the case, in H.M.O.P.No.190 of 2024, to the file of the Subordinate Court, Thanjavur 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 Judge, Subordinate Court, Thanjavur is directed to take the case on file and dispose of the case as expeditiously as possible in accordance with law.



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

05.06.2025

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

To

- 1.The Subordinate Court,
Athur, Salem District.
- 2.The Subordinate Court, Tanjore.



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K.K. RAMAKRISHNAN, J.

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