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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2025

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THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

Tr.CMP.(MD)No.233 of 2025

and

C.M.P.(MD)No.6013 of 2025

S.Saranya

.. Petitioner

Vs.

S.Mahesh Kannan

.. Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in H.M.O.P.No.56 of 2024 on the file of the Sub Court, Kovilpatti, and to transfer the same to the file of the Sub Court, Sivakasi.

For Petitioner : Ms.M.Nandhini Priyadharshini

For Respondent : No Appearance



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ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the petition in H.M.O.P.No.56 of 2024 on the file of the Sub Court, Kovilpatti, and to transfer the same to the file of the Sub Court, Sivakasi.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 28.05.2009 as per the Hindu Rites and Customs. Due the wedlock they have two children.

3. Due to some matrimonial discord, the parties have separated. Therefore, the petitioner/wife initiated a proceeding in H.M.O.P.No.293 of 2024 for dissolution of the marriage, on the file of the Sub Court, Sivakasi. After that the respondent/husband initiated the proceeding in H.M.O.P.No. 56 of 2024, on the file of the Sub Court, Kovilpatti, seeking restitution of conjugal rights.



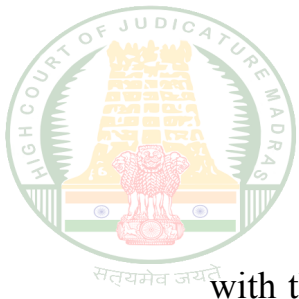
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4. The learned counsel appearing for the petitioner/wife submits that his client is living in Alangulam, Vembakottai Taluk, Virudhunagar District along with her minor children and she was taken care of by her parents. The distance between the petitioner's residence to Kovilpatti, is around 53 Kms, and being a lady, she finds it difficult to travel such a long distance for attending every Court hearing. She has also filed H.M.O.P.No. 293 of 2024 on the file of the Sub Court, Sivakasi. Hence, she seeks transfer of proceeding in H.M.O.P.No.56 of 2024 from the file of the Sub Court, Kovilpatti, to the file of the Sub Court, Sivakasi.

5. Even though notice was served upon the respondent, he did not chose to appear before this Court either in person or through Counsel.

6. Heard the learned counsel appearing for the learned counsel for the petitioner 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



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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 one hour journey to reach the Sub Court, Kovilpatti, situated 53 kms away from her Domicile, namely, Alangulam, Vembakottai Taluk, Virudhunagar District, incurring huge expense, this court inclines to allow the petition.

10. The learned Subordinate Judge, Kovilpatti, is hereby directed to transfer the entire records pertaining to the case, in H.M.O.P.No.56 of 2024, to the file of the learned Subordinate Judge, Sivakasi, 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 Subordinate Judge, Sivakasi, is directed to take the case on file, try the same along with H.M.O.P.No.293 of 2024 already pending on his file, filed by the wife 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 Petition is closed.

13.06.2025

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

- 1.The Subordinate Judge, Kovilpatti.
- 2.The Subordinate Judge, Sivakasi.



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K.K. RAMAKRISHNAN, J.

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