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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

CORAM

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

Tr.CMP.(MD)No.238 of 2025

and

C.M.P.(MD)No.6345 of 2025

Gayathri Devi

.. Petitioner/Respondent

Vs.

Mahendran

.. Respondent/Petitioner

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.106 of 2024 on the file of the Sub Court, Sankarankovil and transfer the same to the Sub Court, Rajapalayam.

For Petitioner : Mr.S.Sukumar

For Respondent : Mr.J.C.Rathnavel Pandian

ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in H.M.O.P.No.106 of 2024 on the file of the Sub Court, Sankarankovil, and transfer the same to the file of the Sub Court, Rajapalayam.



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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 08.09.2013 at Thiruvengadam Sri Angala Eswari Ammal Temple as per the Hindhu Rites and Customs. During their wedlock, a male child was born on 09.04.2011 and a male child, was born on 10.02.2018.

3. Due to some matrimonial discord, the parties have separated.

Therefore, the respondent/husband initiated a proceedings in H.M.O.P.No. 106 of 2024 before the Sub Court, Sankarankovil, seeking restitution of conjugal rights and the petitioner/wife also filed a petition in H.M.O.P.No. 54 of 2025, before the Sub Court, Rajapalayam, seeking divorce.

4. The learned counsel appearing for the petitioner/wife submits that now the petitioner is living in Rajapalayam, Virudhunagar District with her minor child. The distance between the petitioner's domicile to the Family Court, Sankarankovil, is around 64 km, and being a lady with a minor child, she finds it difficult to travel such a long distance for attending every Court hearing. Hence, he seeks to allow this petition as prayed for.



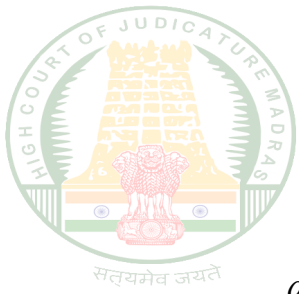
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5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. Considering the rival submissions made by the counsel 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



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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.

9. Considering the over all facts and circumstances and also taking into account of the inconvenience expressed by the petitioner in attending every Court hearing with a minor child by travelling an 2 hour journey to reach the Family Court, Sankarankovil, situated 64 km away from her domicile, incurring huge expense, this court inclines to allow the petition.



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10. The learned District Judge, Family Court, Sankarankovil, is hereby directed to transfer the entire records pertaining to the case in H.M.O.P.No.106 of 2024, to the file of the learned District Judge, Sub Court, Rajapalayam, 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 District Judge, Sub Court, Rajapalayam, is directed to take the case on file and to try this case along with H.M.O.P.No.54 of 2025 and dispose of both the cases as expeditiously as possible in accordance with law.

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

28.07.2025

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



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K.K. RAMAKRISHNAN, J.

dss

To

- 1.The Family Court,
Sankarankovil.
- 2.The Sub Court,
Rajapalayam.

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