



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2025

CORAM

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

Tr.CMP.(MD)Nos.276, 213, 259 & 277 of 2025

and

C.M.P.(MD)Nos.7271, 5324, 6856 & 7278 of 2025

Tr.CMP.(MD)No.276 of 2025

J.Sahayamary

... Petitioner/1st Defendant

Vs.

1.Mahalakshmi

2.Minor.Teena Maclin

(The minor second respondent is represented by her mother,
guardian, the first respondent)

3.Susai Mary

... Respondents 1 to 3/Plaintiffs 1 to 3

4.The District Collector,
Dindigul District,
Collectorate,
Velu Nachiyar Complex,
Dindigul.

5.The Tahsildar,
Athoor Taluk, Athoor,
Dindigul District.

... Respondents 4 & 5/Defendants 2 & 3



WEB COPY

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in O.S.No.45 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Athoor, Dindigul District and transfer the same to any other competent Court in Madurai District.

For Petitioner : Mr.G.Aravinthan
For R1 to R3 : Mr.V.Sakthivel
For R4 & R5 : Mr.M.Muthumanikkam
Government Advocate (Civil.Side)

Tr.CMP.(MD)No.213 of 2025

J.Mahalakshmi ... Petitioner/Petitioner

Vs.

J.Sahayamary ... Respondent/Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in SOP.No.20 of 2022 on the file of the Subordinate Judge, Periyakulam, Theni District, and to transfer the said case to the District Munsif of Athoor Taluk or any other equal jurisdictional Court in Dindigul District.

For Petitioner : Mr.V.Sakthivel
For Respondent : Mr.G.Aravinthan



Tr.CMP.(MD)No.259 of 2025

J.Sahayamary

... Petitioner/Petitioner

Vs.

J.Mahalakshmi

... Respondent/Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in SOP.No.20 of 2022 on the file of the Subordinate Judge, Periyakulam, Theni District, and to transfer the same to the file of the Principal Subordinate Court, Madurai, Madurai District.

For Petitioner : Mr.G.Aravinthan

For Respondent : Mr.V.Sakthivel

Tr.CMP.(MD)No.277 of 2025

J.Sahayamary

W/o.Dominic Xavier

... Petitioner/Respondent

(Originally wife of Late.John @ Johnbosco. The respondent fraudulently mentioned his name)

Vs.

Dominic Xavier

... Respondent/Petitioner



WEB COPY

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in I.D.O.P.No.05 of 2024 pending on the file of the Principal District and Sessions Court, Dindigul, Dindigul District and transfer the same to the file of the Family Court, Madurai, Madurai District.

For Petitioner : Mr.G.Aravinthan

For Respondent : **No Appearance**

COMMON ORDER

The petitioner (J.Sahayamary) in Tr.CMP(MD)No.276 of 2025 has filed the above said petition seeking to transfer of the case in O.S.No.45 of 2023 from the file of the District Munsif cum Judicial Magistrate Court, Athoor, Dindigul District, to the file of any other competent Court in Madurai District.

2. The petitioner (J.Mahalakshmi) in Tr.CMP(MD)No.213 of 2025 has filed the above said petition seeking to transfer the case in SOP.No.20 of 2022 from the file of the Subordinate Judge, Periyakulam, Theni District, to the file of the District Munsif of Athoor Taluk.



WEB COPY

3. The petitioner (J.Sahayamary) in Tr.CMP(MD)No.259 of 2025 has filed the above said petition seeking to transfer of the case in SOP.No. 20 of 2022 from the file of the Subordinate Judge, Periyakulam, Theni District, to the file of the Principal Subordinate Court, Madurai, Madurai District.

4. The petitioner (J.Sahayamary) in Tr.CMP(MD)No.277 of 2025 has filed the above said petition seeking to withdraw the case in I.D.O.P.No. 05 of 2024 pending on the file of the Principal District and Sessions Court, Dindigul, Dindigul District, and transfer the same to the file of the Family Court, Madurai, Madurai District.

5. The petitioner (J.Sahayamary) in Tr.CMP(MD)Nos.276, 277 and 259 of 2025 and the petitioner (J.Mahalakshmi) in Tr.CMP(MD)No.213 of 2025 are claimed to be the wives of deceased John @ Johnbosco.



WEB COPY

6. The averments made by the petitioner in Tr.CMP(MD)Nos.

276, 277 and 259 of 2025:-

6.1. According to the petitioner, she got married to one John @ Johnbosco. The said John @ Johnbosco was working as Mazdoor in Tamil Nadu Generation and Distribution Corporation Ltd., at Oddnchatram. They were childless. Hence, some problem cropped up between the petitioner and her husband namely, the deceased leading to their separation and the petitioner started to live with her parents and filed M.C.No.2 of 2011 before the learned Judicial Magistrate at Periyakulam seeking maintenance.

6.2. The petitioner's husband contested the case by denying their relationship as husband and wife. The said maintenance case was dismissed on 17.06.2016. Challenging the same, she filed CrI.RC(MD)No.636 of 2016 before this Court and the same was allowed on 10.06.2020 by awarding an amount of Rs.5,000/- as maintenance per month from the date of filing of the petition.



WEB COPY

6.3. In the meantime, the petitioner's husband met with an accident and died on 23.07.2021. Hence, the petitioner filed M.C.O.P.No.57 of 2021 before the Motor Accident Claims Tribunal, Periakulam.

6.4. According to the petitioner, she and her mother-in-law alone are the legal heirs of the deceased husband and her father-in-law predeceased her husband. Therefore, on 21.07.2022 she filed an application before the Tahsildar, Athoor for issuance of legal heir certificate and the same was rejected because of the rival claim made by the respondent, who is the petitioner in Tr.CMP(MD)No.213 of 2025. Originally, the respondent was married to one Subbiah and the respondent did not get divorce from him and therefore, the marriage between them is still subsisting. Challenging the rejection of application for Succession Certificate by the Tahsildar, Athoor, the petitioner filed SOP.No.20 of 2022 before the Sub Court, Periyakulam, Theni District, seeking issuance of Succession Certificate and the same is pending.



WEB COPY

6.5. According to the petitioner, she is the legally wedded wife of the deceased husband and the Service Register also contains only her name as legal heir. Hence, she is entitled for the terminal benefits including the family pension, increment arrears, Gratuity, Earn leave benefits and allied benefits.

6.6. The respondent also filed a claim petition in MCOP.No.2132 of 2021 before the III Additional District Judge for PCR Act Cases at Madurai. During the pendency of the trial proceedings, the respondent filed Tr.CMP.No.748 of 2022 to transfer MCOP.No.57 of 2021 filed by the petitioner to the III Additional District Judge for PCR Act Cases of Madurai and the same was allowed on 11.04.2023.

6.7. Apart from that, the respondent, filed a suit in O.S.No.45 of 2023 before the District Munsif cum Judicial Magistrate Court, Athoor. Dindigul District, seeking relief of declaration declaring the respondent and her female child and mother of the deceased as the legal heirs of the



WEB COPY

deceased John @ Johnbosco by impleading the petitioner as first defendant and the same is pending.

6.8. The brother of the deceased John @ Johnbosco also filed IDOP.No.5 of 2024 before the Principal District and Sessions Court, Dindigul, Dindigul District, seeking the relief of restitution of conjugal rights, claiming that he is the husband of the petitioner by creating false documents. Now, the petitioner faces four cases in different places. Hence, she filed the present petitions with the above said prayer.

7. The averments made by the petitioner in Tr.CMP(MD)No. 213 of 2025:-

7.1. The respondent filed SOP.No.20 of 2022 before the Sub Judge, Periyakulam, for getting Succession Certificate by claiming herself as wife of the deceased John @ Johnbosco. On earlier occasion, the respondent filed a petition in WP(MD)No.22066 of 2022 before this Court by adding the petitioner as party to the proceeding seeking disbursement of terminal benefits of the deceased John @ Johnbosco. Thereafter, the

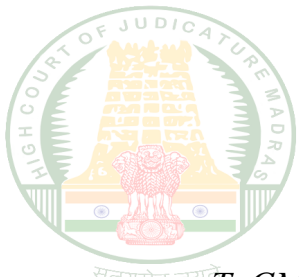


WEB COPY

petitioner filed a petition in WP(MD)No.24981 of 2022 against the respondent, mother of the deceased and TANGEDCO officials to disburse the terminal benefits, namely, pension. The above said writ petitions were disposed of by directing the trial Court for speedy disposal. Since the respondent claimed herself to be the wife of deceased John @ Johnbosco, the petitioner filed a suit in O.S.No.45 of 2023 before the District Munsif cum Judicial Magistrate Court, Athoor and the same is pending trial. The respondent and another person were party to the proceedings. Hence, if the said SOP.No.20 of 2020 is decided earlier, it will affect the merits of the original suit in O.S.No.45 of 2023. To avoid conflict of judgments, he seeks to allow the petition.

8. This Court considered the rival submissions and perused the records available on record.

9. The dispute between the parties to the above Tr.CMP(MD)No. 276, 277, 213 and 259 of 2025 is *whether the petitioner in Tr.CMP(MD)No. 276, 277 and 259 of 2025 namely, "Sahayamary" or the petitioner in*



WEB COPY

Tr.CMP(MD)No. 213 of 2025 namely, “J.Mahalakshmi” is the wife of the deceased “John @ Johnbosco”?

10. The deceased John @ Johnbosco is the son of third respondent in Tr.CMP(MD)No.276 of 2025 namely, “Susaimary”. Before the deceased met with the accident, he was working as a Mazdoor in Tamil Nadu Electricity Board. Now both parties to the proceedings have initiated proceedings to get the terminal benefits of the deceased “John @ Johnbosco”. One Mahalakshmi has filed comprehensive suit in O.S.No.45 of 2023 on the file of the District Munsif Cum Judicial Court, Athoor, Dindigul District for declaring her and her child namely, Teena Maclin and her Mother-in-law namely, Susaimary as legal heirs of the deceased John @ Johnbosco. The said Sahayamary has filed Succession Original Petition in SOP.No.20 of 2022 before the Sub Court, Periyakulam, for getting Succession Certificate. Whereas, the respondent in TR.CMP(MD)No.277 of 2025 namely, Dominic Xavier has filed IDOP.No.5 of 2024 seeking relief of restitution of conjugal rights claiming that “he is the husband of Sahayamary’.



WEB COPY

11. The proceedings in SOP.No.20 of 2022 is “inquiry in nature” and the judgment in O.S.No.45 of 2023 is binding in nature in SOP.No.20 of 2022. In both cases, the issue to be decided is *who is the legally wedded wife of the deceased John @ Johnbosco?*. But the subject matter of IDOP.No.5 of 2024 is *whether the Sahayamary is wife of Dominic Xavier?*. The said decision has a bearing on the issue *whether Sahayamary is wife of deceased John @ Johnbosco?*. Allowing the above cases in different courts would create complication and also will be wastage of Court's time. In O.S.No.45 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Athoor, Dindigul District and SOP.No.20 of 2022 on the file of the Sub Court, Periyakulam, Theni District, same evidence may be adduced. But, the finding in IDOP.No.5 of 2024 on the file of the Principal District and Sessions Court, Dindigul, Dindigul District, has material in deciding the matrimonial relationship of Sahayamary with John @ Johnbosco.



WEB COPY

12. Therefore, this Court, in the interest of justice, to save the precious time of Court and to avoid taking separate evidence in all three Courts and to avoid conflict of appreciation of evidence on the basis of the same evidence, inclines to transfer the proceedings in O.S.No.45 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Athoor, Dindigul District, and SOP.No.20 of 2022 on the file of the Sub Court, Periyakulam, Theni District, to the file of the Principal District and Sessions Court, Dindigul, Dindigul District to try along with IDOP.No.5 of 2024.

13. Accordingly, the Transfer Civil Miscellaneous Petitions are disposed of in the following terms:-

1) The proceedings in O.S.No.45 of 2023 filed by the petitioner in Tr.CMP.No.213 of 2025 on the file of the District Munsif cum Judicial Magistrate Court, Athoor, Dindigul District, SOP.No.20 of 2022 on the file of the Sub Court, Periyakulam, Theni District, are transferred to the Court of Principal District and Sessions Court, Dindigul, Dindigul District, to try the case along with the pending proceedings in I.D.O.P.No.5 of 2024.



2) *The learned Principal District and Sessions Court, Dindigul, is directed to conduct **joint trial** in SOP.No.20 of 2022, I.D.O.P.No.5 of 2024 and O.S.No.45 of 2023 by recording the evidence in O.S.No.45 of 2023, SOP.No.20 of 2022 on the file of Sub Court, Periyuakulam, Theni District, by continuing the proceedings from the stage of cross examination of P.W.1 in O.S.No.45 of 2023 and dispose the cases within a period of **four months** from the date of receipt of a copy of this order.*

3) *All the parties are hereby directed to co-operate as per direction of the learned Principal District and Sessions Judge, Dindigul, Dindigul District, by making their appearance on the hearing dates without fail so as to complete the trial within a period of four months.*

- There shall be no order as to costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

24.06.2025

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



WEB COPY

To

- 1.The Sub Court, Periyuakulam, Theni District,
- 2.The District Munsif cum Judicial Magistrate Court,
Athoor, Dindigul District,
- 3.The Principal District and Sessions Court,
Dindigul, Dindigul District.



WEB COPY



K.K. RAMAKRISHNAN, J.

dss

Tr.CMP.(MD)Nos.276, 213, 259 & 277 of 2025
and
C.M.P.(MD)Nos.7271, 5324, 6856 & 7278 of 2025

24.06.2025