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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.287 of 2025

and

C.M.P.(MD)No.7355 of 2025

C.Yespee

... Petitioner

Vs.

R.Monisha

... Respondent

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.71 of 2025, pending on the file of the learned Judge, Family Court, Theni District and to transfer the same to the file of the learned Subordinate Judge, Sattur Virudhunagar District in order to facilitate the parties to have a joint trial.

For Petitioner : Mr.C.M.Arumugam

For Respondent : Mr.K.Muthu Ganesa Pandian

ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case bearing H.M.O.P.No.71 of 2025, pending on the file of the learned Judge, Family Court, Theni District and to transfer the same to the file of the learned Subordinate Judge, Sattur Virudhunagar District in order to facilitate the parties to have a joint trial.



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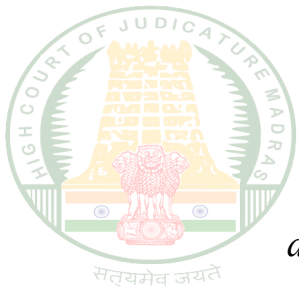
2. The petitioner is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 01.06.2022 at NPM Mahal, Theni District, as per the Hindu Rites and Customs. During their wedlock, a female child was born on 19.03.2023.

3. Due to some matrimonial discord, the parties have separated. Therefore, the petitioner/husband initiated a proceeding in H.M.O.P.No.137 of 2024, on the file of the Sub Court, Sattur, seeking divorce. Thereafter the respondent/wife has filed Tr.C.M.P.No.71 of 2025, on the file of the Family Court, Theni for restitution of conjugal rights.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on records.

5. 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



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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."

6. 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.

7. Considering the overall facts and circumstances of the case and also taking into account of the inconvenience expressed by the respondent in attending every court hearing, by travelling more than 2 hour journey to reach the learned Subordinate Judge Sattur, Virudhunagar District situated 100 kms away from her Domicile, namely, Allinagaram, Theni Town, Theni District, incurring huge expense, this Court is not inclined to allow the petition.



WEB COPY 8. Accordingly, this transfer miscellaneous petition is dismissed.

There shall be no order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

05.06.2025
(1/2)

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

To

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



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K.K. RAMAKRISHNAN, J.

rgm

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