

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2025

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THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

Tr.CMP.(MD)No.316 of 2025

and

C.M.P.(MD)No.8552 of 2025

V.Devi

.. Petitioner

Vs.

K.Deivakani

.. 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.1183 of 2022 on the file of the Family Court, Madurai and transfer the same to the file of the Sub Court, Thirumangalam.

For Petitioner : Mr.M.Arikaran

For Respondent : No Appearance

ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the proceeding in H.M.O.P.No.1183 of 2022 pending before the Family Court, Madurai and transfer the same to the file of the Sub Court, Thirumangalam.



2. The petitioner is the wife and the respondent is the husband.

The marriage between the petitioner and the respondent was solemnized on 25.03.2009 as per Hindu Rites and Customs. Out of wedlock, two male children, namely, Sivarohith and Bramesh were born.

3. Due to disputes and differences, the parties have separated, and the petitioner/wife has initiated the proceeding in H.M.O.P.No.1183 of 2022 on the file of the Family Court, Madurai seeking divorce and the respondent/husband has filed the petition in H.M.O.P.No.162 of 2023 for restitution of conjugal rights before the Sub Court, Thirumangalam.

4. The learned counsel for the petitioner would submit that the petitioner/wife is now residing with her children at Peraiyur, Madurai District. The distance between Peraiyur and Madurai is around 60 Kms, and the petitioner/wife, being a lady, finds it very difficult to travel such a long distance for attending every Court hearing along with two children. Hence, she seeks transfer of proceeding in H.M.O.P.No.1183 of 2022 from the file of the Family Court, Madurai to the file of the Sub Court, Thirumangalam.

5. The name of the respondent has been printed in the cause list.

Despite the name has been printed in the cause list, the



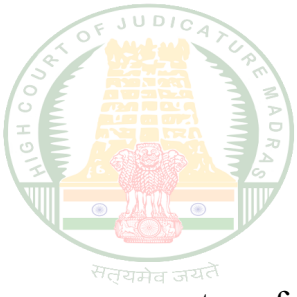
respondent/husband has neither entered appearance through a counsel nor in-person to oppose this transfer petition.

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6. Heard the learned counsel appearing 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 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.”

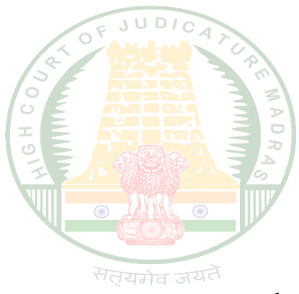


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8. It is also well settled proposition of law that whenever a transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into, and the wife's convenience shall be given preference.

9. Considering the overall facts and circumstances of the case and also taking into account of the inconvenience expressed by the petitioner in attending every court hearing, by travelling Two hours journey to reach the Family Court, Madurai, situated 60 kms away from her Domicile, namely, Peraiyur, incurring expense, this court inclines to allow the petition.

10. The learned Judge, Family Court, Madurai, is hereby directed to transfer the entire records pertaining to the case, in H.M.O.P.No.1183 of 2022, to the file of the learned Subordinate Judge, Thirumangalam, 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, Thirumangalam, is directed to take the case on file, and dispose of the cases 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.

01.07.2025

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

1.The Family Court,
Madurai.

2.The Sub Court,
Thirumangalam.



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K.K.RAMAKRISHNAN, J.

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