



Tr.C.M.P.(MD)No.432 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.432 of 2024
and
C.M.P.(MD)No.9448 of 2024

Tharani

... Petitioner

Vs.

Dr.Amuthakalaigan

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the H.M.O.P.No.152 of 2024 pending before the Family Court, Tiruchirappalli and transfer the Family Court, Tirunelveli.

For Petitioner : Mr.N.Ananda Kumar

For Respondent : Mr.S.K.Mani

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case from the file of the Family Court, Tiruchirappalli, in H.M.O.P.No.152 of 2024 and transfer the same to the file of the Family Court, Tirunelveli.



Tr.C.M.P.(MD)No.432 of 2024

WEB COPY

2. Heard the learned counsel on either side.

3. It is evident from the records that the marriage between the petitioner and the respondent was solemnized on 07.11.2016. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.152 of 2024 seeking divorce and the same is pending on the file of the Family Court, Tiruchirappalli.

4. The learned counsel appearing for the petitioner would submit that the petitioner is residing at Palayamkottai, Tirunelveli and finds it difficult to travel to Tiruchirappalli to attend the hearings.

5. The learned counsel appearing for the respondent would submit that the respondent is a Doctor and if the case is transferred, it will affect his practise.

6. 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 reiterated the position with generally, it is the wife's convenience, which



Tr.C.M.P.(MD)No.432 of 2024

must be looked at 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.”

7. Considering the above facts and circumstances and also taking note of the fact that the petitioner is residing at Palayamkottai, Tirunelveli, this Court is of the view that the case in H.M.O.P.No.152 of 2024 is ordered to be withdrawn from the file of the Family Court, Tiruchirappalli, and transfer the same to the file of the Family Court, Tirunelveli.



Tr.C.M.P.(MD)No.432 of 2024

WEB COPY

Accordingly, the learned Judge of Family Court, Tiruchirappalli, is hereby directed to transmit the entire records in H.M.O.P.No.152 of 2024 to the file of the Family Court, Tirunelveli, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Judge, Family Court, Tirunelveli, is directed to take up the petition on file and proceed in accordance with law.

8. At this juncture, the learned counsel appearing for the respondent would submit that the respondent's personal appearance before the trial Court may be dispensed with.

9. In the result, the Transfer Civil Miscellaneous Petition stands allowed. The respondent is at liberty to move the concerned Court for dispense with his personal appearance and on such application, the trial Court is directed to consider the same and pass orders. Consequently, connected Miscellaneous Petition is closed. No costs.

31.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



Tr.C.M.P.(MD)No.432 of 2024

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To

1. The Judge,
Family Court, Tiruchirappalli.
2. The Judge,
Family Court, Tirunelveli.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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Tr.C.M.P.(MD)No.432 of 2024

K.MURALI SHANKAR,J.

csm

Order made in
Tr.C.M.P.(MD)No.432 of 2024
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Dated : 31.01.2025