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TR CMP(MD) NO. 39
BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03-11-2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

TR CMP(MD) NO. 396 of 2025

and

CMP(MD) No.10818 of 2025

M.Priya
W/o. R.Mariraj
D/o. Periyasamy Thevar
462/2, Telephone Nagar
Bommaiyagoundanpatti
Oonjampatti Village-Hamlet
Theni District.

Appellant(s)

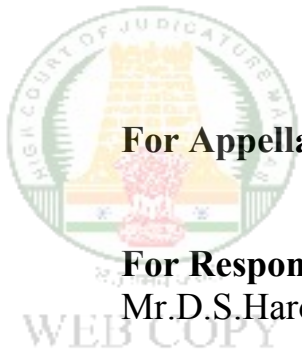
Vs

R.Mariraj
S/o. Ramaiah
297, Kanagalakshmi Bhavn
Sri Sakthi Nagar
Tenkasi Town and Taluk
Tenkasi District.

Respondent(s)

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the HMOP No.18 of 2025 on the file of the Learned Principal Sub Court, Tenkasi and transfer the same on the file of the Learned Family Court, Theni.



For Appellant(s):

Mr. G.S.Rajavel

For Respondent(s):

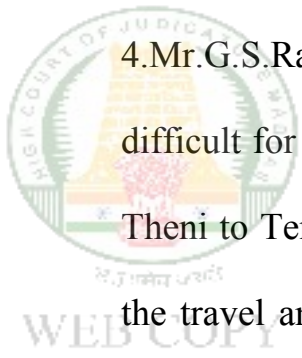
Mr.D.S.Haroon Rasheed

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw the case in H.M.O.P.No.18 of 2025 pending on the file of the Principal Subordinate Court, Tenkasi, and transfer the same to the file of Family Court, Theni.

2.Heard Mr.G.S.Rajavel, learned counsel for the petitioner and Mr.D.S.Haroon Rasheed, learned Counsel for the respondent.

3.The petitioner is the wife and the respondent is the husband and their marriage was solemnized on 04.06.2017, according to Hindu rites and customs and out of their wedlock, they were blessed with two children, namely, M.Mridhulan and M.Tejosri, who are aged about 7 years and 3 years respectively. Due to difference of opinion, they are living separately and the respondent/husband has filed H.M.O.P.No.18 of 2025 before the Principal Subordinate Court, Tenkasi, seeking divorce and the petitioner/wife has also filed HMOP.No.197 of 205 before the Family Court, Theni seeking restitution of conjugal rights. Seeking transfer of the above H.M.O.P.No.18 of 2025 from the file of Principal Subordinate Court, Tenkasi, to the file of Family Court, Theni, the present Transfer Civil Miscellaneous Petition has been filed.



4.Mr.G.S.Rajavel, learned counsel for the petitioner submits that being a lady, it is difficult for the petitioner to travel more than 350 kms., approximately up and down from Theni to Tenkasi, for all the Court hearings and also she do not have any finance to meet the travel and other incidental expenses. Thus, he prays that this Court may transfer the case in HMOP.No.18 of 2025 from the file of the Principal Subordinate Court, Tenkasi, to the file of Family Court, Theni.

5.The Co-ordinate Bench of this Court, vide order dated 08.08.2025, referring the matter to the Mediation and Conciliation Centre attached to this Bench, had passed the following order, :-

“Today, when the matter is taken up for hearing, the learned counsel for the petitioner as well as the respondent would submit that the matter may be referred to mediation for resolving the issue.

2.Considering the request of the both side counsel, this matter is referred to Mediation and Conciliation Centre, attached to this Bench. 3.Both the parties are directed to appear before the Mediation Centre on 22.08.2025. In the mean time, the Mediation Centre shall appoint a mediator in this case. The Mediator is directed to submit a report on or before 19.09.2025.

4.Registry is directed to list the matter before this Court 22.09.2025, along with report.

5.There shall be an order of interim stay upto 26.09.2025.”

6.After mediation, The Mediation and Conciliation Centre attached to this Bench had filed its report, dated 11.09.2025, which is already on record, and as per the mediation report,



dated 11.09.2025, it is seen that the petitioner appeared for mediation and the respondent consecutively did not appear for three hearings before the Mediation Centre. Thus, it appears that the respondent is not interested for mediation.

7. Mr. D.S. Haroon Rasheed, learned counsel for the respondent has made submissions, opposing to transfer the matrimonial case filed by the respondent in HMOP.No.18 of 2025, as prayed for by the petitioner, as it is also equally inconvenient for the respondent to attend all the Court hearings before the Court, to which, the matrimonial case filed by him, is now sought to be transferred by the petitioner.

8. Accordingly, after considering the arguments as advanced by the learned counsel for the parties, considering the fact that the petitioner, being a lady, would be facing difficulty to travel about more than 350 kms approximately up and down to attend all the Court hearings before the Principal Subordinate Court, Tenkasi, where the HMOP.No.18 of 2025 is pending and that she is also facing finance constraint to meet travel and incidental expenses and also considering the fact that though the matter was referred to the Mediation and Conciliation Centre attached to this Bench, the respondent consecutively did not appear for three hearings for mediation and also considering the averments made in the affidavit filed in support of the present Transfer Civil Miscellaneous Petition, this Transfer

Civil Miscellaneous Petition is **allowed**, as prayed for. The matrimonial case in HMOP.No.18 of 2025, on the file of the Principal Subordinate Court, Tenkasi, is hereby ordered to be withdrawn and transferred to the file of the Family Court, Theni. The learned Judge, Family Court, Theni, is directed not to give any adjournment to either of the parties unless there is any cogent reason or stay by any higher Court and decide the case, on merits and in accordance with law, expeditiously. No costs. Consequently, connected Civil



Miscellaneous Petition is closed.



9. Registry is directed to communicate this order to the learned Principal Subordinate Judge, Tenkasi, as well as to the learned Judge, Family Court, Theni, for its necessary compliance and information, within a period of 10 days from today.

03-11-2025

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To

1. The Principal Subordinate Judge, Tenkasi.
2. The Judge, Learned Family Court, Theni.
3. The Additional Registrar General,
Madurai Bench of Madras High Court, Madurai.



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SHAMIM AHMED, J.

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TR.C.M.P.(MD)No.396 of 2025

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