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Tr.C.M.P(MD).No.501 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.01.2025

Delivered on : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.501 of 2024
and
C.M.P(MD)No.11878 of 2024

Madhumitha : Petitioner

Vs.

A.Adam Jones : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in I.D.O.P.No.551 of 2024 on the file of the Family Court, Madurai and transfer the same to the Family Court, Karur.

For Petitioner : Mr.N.Anandakumar,

For Respondent : Mr.K.C.Ramalingam

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the case in I.D.O.P.No.551 of 2024 from the file of the Family Court, Madurai and transfer the same to the Family Court, Karur.



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2. It evident from the records that the marriage between the parties was solemnized on 17.05.2019 and due to their wed-lock they were blessed with a female child. It is not in dispute that the respondent has filed a petition in I.D.O.P.No.551 of 2024, seeking restitution of conjugal rights and the same is pending on the file of the Family Court, Madurai. It is not in dispute that the petitioner has initiated the proceedings under the Domestic Violence Act in D.V.P.No.24 of 2024 and the same is pending on the file of the Additional Mahila Court, Karur.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Kadaparai, Karur District and she is having a female child to take care and finds it very difficult to travel to Madurai to attend the hearings.

4.The learned counsel appearing for the respondent has filed a counter statement raising objections. He would submit that the respondent is suffering from 'L3-L4, L4-L5 Disc Protrusion with left Radiculopathy' since January 2024 and is taking treatment continuously and that the Doctor attending him has advised to avoid distance travelling.



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5. The learned counsel appearing for the petitioner would submit that the respondent has been appearing before the Additional Mahila Court for DVC proceedings.

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 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.”



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7. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Kadaparai, Karur District and also the fact that the DVC case is pending before the Additional Mahila Court, Karur, this Court is of the view that the petition in I.D.O.P.No.551 of 2024, is ordered to be withdrawn from the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Karur. Accordingly, the learned Judge, Family Court, Madurai, is hereby directed to transmit the entire records in I.D.O.P.No.551 of 2024 to the file of the Family Court, Karur, 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, Karur, is directed to take up the suit on file and proceed in accordance with law.

8. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

31.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

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



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K.MURALI SHANKAR, J.

DAS

Pre-delivery order made in
Tr.C.M.P (MD).No.501 of 2024
and
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