



Tr.C.M.P(MD).No.496 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.496 of 2024
and
C.M.P(MD)No.11766 of 2024

N.Valli : Petitioner

Vs.

M.Nagarajan : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in H.M.O.P.No.23 of 2024 on the file of the Subordinate Court, Thiruchendur, Thoothukudi District and transfer the same to the file of the Family Court, Tirunelveli.

For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mr.V.George Raja

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the petition in H.M.O.P.No.23 of 2024 on the file of the Sub Court, Thiruchendur, Thoothukudi District and transfer the same to the file of the Family Court, Tirunelveli.



Tr.C.M.P(MD).No.496 of 2024

2. It is evident from the records that the marriage between the parties was solemnized on 03.09.2021 and due to their wed-lock, they were blessed with one female child. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.23 of 2024, seeking divorce and the same is pending on the file of the Sub Court, Thiruchendur.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Tirunelveli and finds it very difficult to travel to Thiruchendur to attend the hearings.

4. The learned counsel for the respondent would submit that the petitioner is mentally challenged person and that the respondent has filed the divorce petition against the petitioner represented by her father and guardian and subsequent to the death of her father, she filed the present petition.

5.The learned counsel for the petitioner would submit that the petitioner is now mentally alright. But the learned counsel for the respondent would submit that they are still disputing the same and it is the matter to be decided at trial.



Tr.C.M.P(MD).No.496 of 2024

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.”

7. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Tirunelveli and she has to take care of her child, this Court is of the view that the petition in H.M.O.P.No.23 of 2024, is ordered to be withdrawn from the file of the Subordinate Court, Thiruchendur



Tr.C.M.P(MD).No.496 of 2024

and transfer the same to the file of the Family Court, Tirunelveli. Accordingly, the learned Sub Judge, Thiruchalur, is hereby directed to transmit the entire records in H.M.O.P.No.23 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. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

30.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das

To

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



WEB COPY



Tr.C.M.P(MD).No.496 of 2024

K.MURALI SHANKAR, J.

DAS

Order made in
Tr.C.M.P (MD).No.496 of 2024
and
C.M.P(MD)No.11766 of 2024

30.01.2025