



Tr.C.M.P.(MD)No.537 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.537 of 2024
and
C.M.P.(MD)No.12831 of 2024

K.Priya

... Petitioner

Vs.

P.Venkatesh @ Venkatachalapathy

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the H.M.O.P.No.66 of 2024 on the file of the learned Subordinate Court, Pattukottai and transfer the same to the learned Family Court, Tiruchirappalli.

For Petitioner : Mr.A.Robinson

For Respondent : Mr.N.Sudhagar Nagaraj

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the



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case on the file of the Subordinate Court, Pattukottai, in H.M.O.P.No.66 of 2024 and transfer the same to the file of the Family Court, Tiruchirappalli.

2. When the matter is taken up for hearing today, the respondent has filed a counter affidavit.

3. Heard the learned counsel on either side.

4. It is evident from the records that the marriage between the petitioner and the respondent was solemnized on 19.02.2006 and due to wed-lock, they were blessed with one female child. It is not in dispute that the petitioner has already filed a petition in H.M.O.P.No.348 of 2018 seeking divorce and the same is pending on the file of the Family Court, Tiruchirappalli and that subsequently the respondent has filed a petition in H.M.O.P.No.66 of 2024 seeking restitution of conjugal rights and the same is pending on the file of the Subordinate Court, Pattukottai.

5. The learned counsel appearing for the respondent would submit that the respondent is still ready and willing for reunion.



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6. But as rightly contended by the learned counsel appearing for the petitioner, divorce petition is pending for the past six years.

7. The learned counsel appearing for the respondent would submit that in case of transfer, the case may be transferred to any place in between Pattukottai and Tiruchirappalli. But as already pointed out, divorce petition filed by the petitioner is pending before the Family Court, Tiruchirappalli.

8. 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



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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."

9. Considering the above facts and circumstances and also taking note of the facts that the petitioner is residing at Tiruchirappalli and that divorce petition is also pending before the Family Court, Tiruchirappalli, this Court is of the view that the case in H.M.O.P.No.66 of 2024 is ordered to be withdrawn from the file of the Subordinate Court, Pattukottai, and transfer the same to the file of the Family Court, Tiruchirappalli. Accordingly, the learned Subordinate Judge, Pattukottai, is hereby directed to transmit the entire records in H.M.O.P.No.66 of 2024 to the file of the Family Court, Tiruchirappalli, 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 of Family Court, Tiruchirappalli, is directed to take up the petition on file and proceed in accordance with law.



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

03.01.2025

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

To

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



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K.MURALI SHANKAR,J.

csn

Order made in
Tr.C.M.P.(MD)No.537 of 2024
and
C.M.P.(MD)No.12831 of 2024

Dated : 03.01.2025