



TR.CMP(MD)No.538 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2025

CORAM:

THE HONOURABLE **MR.JUSTICE MOHAMMED SHAFFIQ**

TR.CMP(MD)No.538 of 2024

and

C.M.P.(MD)No.12835 of 2024

Abinaya

... Petitioner

Vs

Sivagnanam

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw the case in H.M.O.P.No. 298 of 2024 on the file of the Sub court, Uthamapalayam, Theni District and transfer the same to the file of the family court, Madurai, Madurai District.

For Petitioner : Mr.N.Pragalathan,

For Respondent : Mr.B.Arun

ORDER

This Transfer Petition is at the instance of wife. She seeks withdrawal of H.M.O.P.No. 298 of 2024 from the file of Sub court, Uthamapalayam, Theni District and transfer the same to the file of Family Court, Madurai.



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2.Heard Mr.N.Pragalathan, learned counsel for petitioner and Mr.B.Arun, learned counsel for respondent.

3.Petitioner married the respondent on 10.12.2020, according to Hindu rites and customs. Out of wedlock, a child was born. Due to differences, parties have separated. Respondent/husband initiated proceedings in H.M.O.P.No. 298 of 2024 for divorce before Sub court, Uthamapalayam, Theni District. Pleading that wife is residing in Madurai and her daughter is suffering from minimal hemosiderin deposits seen along with tentorium cerebelli, she is unable to travel from Madurai to Uthamapalayam, she has moved this transfer petition.

4.Mr.D.Venkatesh, learned counsel for respondent submitted that respondent has no objection to transfer H.M.O.P.No. 298 of 2024, on the file of Sub court, Uthamapalayam, Theni District to the file of Family Court, Madurai.

5.It is relevant to note that Parliament, while amending the Hindu Marriage Act, has incorporated Section 19(iii), permitting a wife to initiate a proceeding in a place where she is residing. This is an indication that



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convenience of the wife has to be given precedence by the Court. In line with this Parliamentary amendment, this Court and the Supreme Court have consistently held in matters of transfer, convenience of wife should be given a superior consideration than that of husband. As the distance between Madurai and Uthamapalayam is considerable and since it will be difficult for the wife to leave the child behind and travel to attend the Court, I am inclined to accept the transfer.

6.In view thereof, H.M.O.P.No. 298 of 2024 pending on the file of Sub court, Uthamapalayam, Theni District, is hereby ordered to be withdrawn and transferred to the file of Family Court, Madurai. Learned Family Court, Madurai, is directed to dispose of the aforementioned case expeditiously, preferably within a period of six months.

7. Family Court may not insist upon the physical presence of husband on all hearing dates and permit to appear through Video Conferencing. For non-essential and procedural hearings, he may be permitted to be represented through a counsel. He shall, however, present himself before the Court, when Trial Court passes a specific order for his appearance or when his presence is indispensable.



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8. With the above observations, the Transfer Petition is **allowed**. There is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
Web : Yes/No
Speaking/Non Speaking

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LR

To

1. Sub court, Uthamapalayam, Theni District

2. Judge, Family Court,
Madurai District.



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MOHAMMED SHAFFIQ, J.

LR

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