



Tr.C.M.P(MD).No.564 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.564 of 2024
and
C.M.P(MD)No.13350 of 2024

D.Daisy Dayana : Petitioner

Vs.

S.Amaladoss : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the divorce petition in I.D.O.P.No.424 of 2024 pending on the file of the Family Court, Tiruchirappalli and transfer the same to the Family Court, Perambalur.

For Petitioner : Mr.R.Mohanasundaram

For Respondent : Mr.P.Arun Jayatram

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the divorce petition in I.D.O.P.No.424 of 2024 pending on the file of the Family Court, Tiruchirappalli and transfer the same to the Family Court, Perambalur.



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2. It evident from the records that the marriage between the parties was solemnized on 10.11.2019. It is not in dispute that the respondent has filed a petition in I.D.O.P.No.424 of 2024, seeking divorce and the same is pending on the file of the Family Court, Trichy.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Veppandhattai, Perambalur District and finds it very difficult to travel to Trichy to attend the hearings.

4.The learned counsel for the respondent would submit that the respondent met with an accident on 14.03.2024 and his scan report reveals that Left 7th and 8th Ribs Osteomyelitis and Adjacent Costochondritis with Soft Tissue Abscess shows resolving changes and that the Doctor, who attending him, has given a certificate stating that he is fit to join duty, he has to avoid long travel for six months and hence, his appearance before the family Court may be dispensed with.

5. 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



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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.”

6. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Veppandhattai, Perambalur District, this Court is of the view that the case in I.D.O.P.No.424 of 2024, is ordered to be withdrawn from the file of the Family Court, Trichy and transfer the same to the file of the Family Court, Perambalur. Accordingly, the learned Judge, Family Court, Trichy, is hereby directed to transmit the entire records in I.D.O.P.No.424 of 2024 to the file of the Family Court, Perambalur, within a



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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, Perambalur, is directed to take up the petition on file and proceed in accordance with law. But, at the same time, considering the medical condition of the respondent, the personal appearance of the respondent before the Family Court, Perambalur is dispensed with. The learned Judge, Family Court, Perambalur, is at liberty to direct the respondent to appear before the Court as and when required.

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

22.01.2025

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

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



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K.MURALI SHANKAR, J.

DAS

Order made in
Tr.C.M.P (MD).No.564 of 2024
and
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22.01.2025