

Tr.CMP(MD)No.583 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.04.2025

Pronounced on : 11.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.CMP(MD)No.583 of 2024

and

C.M.P(MD)No.13810 of 2024

Sankara Lakshmi

... Petitioner

Vs.

Raja

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.142 of 2024 on the file of the Sub Court, Rajapalayam and transfer the same to the file of the Sub Court, Ambasamudram.

For Petitioner : Mr.D.Packiaraj

For Respondent : Mr.C.M.Arumugam



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in H.M.O.P.No.142 of 2024 on the file of the Sub Court, Rajapalayam and to transfer the same to the file of the Sub Court, Ambasamudram.

2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 08.12.2002 as per Hindu religious rites and customs. Out of wedlock, they have been blessed with a son and daughter. Due to misunderstanding, they are living separately. Thereafter, the respondent filed a petition for divorce against the petitioner and the same is now pending as H.M.O.P.No.142 of 2024 on the file of the Sub Court, Rajapalayam.

3. The learned counsel for the petitioner has submitted that the petitioner is now residing with her parents at Ambasamudram along with her daughter. Her parents are suffering from old age ailments and she is looking after her parents in addition to her daughter. The petitioner has to travel near 114 km from Ambasamudram to Rajapalayam and she finds it very difficult to travel. He further submits that the convenience of the wife has to be favoured in the matter of matrimonial cases.



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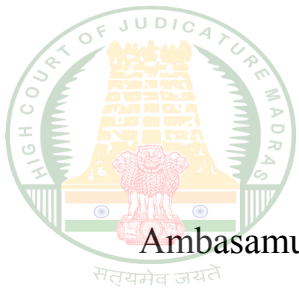
4. The learned counsel for the respondent filed a counter and objected the petition. The learned counsel further submitted that out of wedlock, the parties have been blessed with a son and a daughter. The son is residing along with his father, the respondent herein and he is studying at Rajapalayam School. The petitioner/wife is working as teacher in Panchayat Union School at Padanthal Village, Sattur, where she is residing along with her daughter. The daughter is also studying in Sattur school. Moreover, the respondent has filed the case in D.V.C.No.16 of 2019, which is pending before the Judicial Magistrate Nos.II, Sattur. Another criminal case in C.C.No.32 of 2022, which is filed at the instance of the complaint lodged by the petitioner and the said case is pending before the Judicial Magistrate No.I, Sattur. Originally, HMOP.No.93 of 2019 for divorce was filed before the Sub Court, Srivilliputhur and after bifurcation of district, the case was transferred to the Sub Court, Rajapalayam. In the said petition, the respondent's (petitioner therein) side evidence was closed and the case is now posted for petitioner's (respondent therein) side evidence. In such circumstances, this Court has declined to transfer the case as sought by the wife by ordering cost to be paid to the wife and produced the copy of the order passed in Tr.C.M.P(MD)No.330 of 2024, dated 09.07.2024. The petitioner has not taken any steps to transfer the aforesaid DVC.No.16 of 2019 and C.C.No.32 of 2022.



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In order to harass the respondent, the petitioner has filed this petition without any valid reason. So, the petition may be dismissed.

5. Submissions of both sides considered. The respondent's side filed the typed sets of papers. On hearing both and on perusal of records, it is clear that the petitioner and the respondent are having two children, i.e., a son and a daughter. The son is residing along with the respondent/father and he is studying at school in Rajapalayam. The daughter is residing along with the petitioner/wife and she is studying in Sattur school. The petitioner is working as a teacher in the Panchayat Union School, Padanthal Village. She is residing at Sattur as seen from the D.V.C.No.16 of 2019 and C.C.No.32 of 2022, both cases are filed against the respondent and the same are pending before the Judicial Magistrate Court Nos.II and I, Sattur respectively. These facts are not disputed. Moreover, it is not disputed by the petitioner, the HMOP.No.142 of 2024 is pending for adducing her side evidence. As rightly submitted by respondents, in a few hearings, the petition in HMOP.No.142 of 2024 would be concluded by the trial Court. The petitioner has not produced sufficient material to show that she is now residing at Ambasamudram. Moreover, as rightly contended by the respondent's counsel, the petitioner has not taken any steps for transferring the cases in DVC.No.16 of 2019 and C.C.No.32 of 2022, which are filed by her in



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Ambasamudram Court. Admittedly, the HMOP.No.142 of 2022 is pending before

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the Sub Court and so the physical appearance of the parties for each hearing is need not necessary, except material hearing or direction of the Court. Though it is a settled principle that the wife's convenience is predominantly looked into, the petitioner has not produced sufficient acceptable material to transfer the case to Ambasamudram. In the absence of such material and also in the above facts and circumstances, this Court is not inclined to allow this petition.

6. In the result, this Transfer Civil Miscellaneous Petition is dismissed.

No costs. Consequently, the connected Miscellaneous Petition is closed.

11.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD

To

1.The Sub Court,
Rajapalayam.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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