



Tr.C.M.P.(MD)No.674 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.674 of 2022
and
C.M.P.(MD)No.10827 of 2022

Velmurugammal

... Petitioner

Vs.

Natarajan

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the case in H.M.O.P.No.224 of 2022 pending on the file of the learned Family Court, Thoothukudi and transfer the same to the file of the learned Family Court, Tirunelveli.

For Petitioner : Mr.K.Navaneetharaja

For Respondent : Mr.K.Ayyanar Prem Kumar

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case from the file of the Family Court, Thoothukudi, in H.M.O.P.No.674 of 2022 and transfer the same to the file of the Family Court, Tirunelveli.



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2. Heard the learned counsel on either side.

3. It is evident from the records that the marriage between the petitioner and the respondent was solemnized on 15.09.2016 and due to their wedlock, they were blessed with a male child. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.224 of 2022 seeking restitution of conjugal rights and the same is pending on the file of the Family Court, Thoothukudi.

4. The learned counsel appearing for the petitioner would submit that the petitioner is residing at Tirunelveli District and finds it difficult to travel to Thoothukudi District along with her male child to attend the hearings.

5. But the learned counsel appearing for the respondent would submit that the male child is under the care and custody of the respondent and the respondent being a Government Servant is very difficult to take leave.



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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. At this juncture, the learned counsel appearing for the respondent would submit that if the case is transferred, the trial Court may be directed



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to complete the trial within the stipulated time fixed by this Court.

8. Considering the above facts and circumstances and also taking note of the fact that the petitioner is residing at Tirunelveli District, this Court is of the view that the case in H.M.O.P.No.224 of 2022 is ordered to be withdrawn from the file of the Family Court, Thoothukudi, and transfer the same to the file of the Family Court, Tirunelveli. Accordingly, the learned Judge of Family Court, Thoothukudi, is hereby directed to transmit the entire records in H.M.O.P.No.224 of 2022 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 of Family Court, Tirunelveli, is directed to take up the petition on file and proceed in accordance with law.

9. Since the case is pending from 2022 onwards, the learned Judge of Family Court, Tirunelveli is directed to proceed with the trial and complete the same within a period of four months from the date of receipt of the case bundle.



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

27.01.2025

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

To

1. The Judge,
Family Court, Thoothukudi.
2. The Judge,
Family Court, Tirunelveli.
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.674 of 2022
and
C.M.P.(MD)No.10827 of 2022

Dated : 27.01.2025