



Tr.C.M.P(MD).Nos.607 & 608 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.12.2024

Delivered on : 24.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD)Nos.607 and 608 of 2024
and
C.M.P(MD)Nos.14544 and 14549 of 2024

Tr.C.M.P (MD)No.607 of 2024 :

Reena : Petitioner

Vs.

Rajeshkumar : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.182 of 2024 on the file of the Additional Sub Court, Kumbakonam, Thanjavur District and transfer the same to the file of the Family Court, Pudukkottai.

Tr.C.M.P (MD)No.608 of 2024 :

Reena : Petitioner

Vs.



Tr.C.M.P(MD).Nos.607 & 608 of 2024

1.Rajeshkumar

2.Gunasekaran

: Respondents

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Civil Procedure Code, to withdraw the case in G.W.O.P.No.23 of 2024 on the file of the Principal District Court, Thanjavur and transfer the same to the Principal District Court, Pudukkottai.

For Petitioner : Mr.D.Ramesh Kumar

For Respondents : Ms.S.Prabha, for R2.

R1 dispensed with.

COMMON ORDER

Tr.C.M.P(MD)No.607 of 2024 has been filed seeking orders to withdraw the case in H.M.O.P.No.182 of 2024 on the file of the Additional Sub Court, Kumbakonam, Thanjavur District and transfer the same to the file of the Family Court, Pudukkottai.

2.Tr.C.M.P (MD)No.608 of 2024 has been filed seeking orders to withdraw the case in G.W.O.P.No.23 of 2024 on the file of the Principal District Court, Thanjavur and transfer the same to the Principal District Court, Pudukkottai.



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3. It is evident from the records that the marriage between the petitioner and the respondent/Rajeshkumar was solemnized on 09.05.2010 and due to their wedlock, they were blessed with a male child Rumeswharan, who born on 06.08.2011. It is not in dispute that the husband/respondent has filed a petition in H.M.O.P.No.182 of 2024, seeking restitution of conjugal rights and the same is pending on the file of the Principal Sub Court, Kumbakonam. It is also not in dispute that the respondent/husband has filed another petition in G.W.O.P.No.23 of 2024, seeking orders to appoint him as guardian of their minor child and to handover the custody of the child to him and the same is pending on the file of the Principal District Court, Thanjavur.

4. The case of the petitioner/wife is that the respondent/husband demanded more dowry and harassed her since the date of marriage and he suspected her fidelity and used to harass her regularly; that the petitioner along with her child is residing with her family members; that her son is studying at Sri Ambal Matriculation School, Konaiyur, Konapattu; that the petitioner is paying the school fees and maintained the medical expenses and other needs of her minor child; that the respondent/husband has not chosen to pay any amount towards maintenance to the wife and their child and that the



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respondent/husband has filed the petition in H.M.O.P.No.182 of 2024, seeking restitution of conjugal rights before the Sub Court, Kumbakonam and another petition in G.W.O.P.No.23 of 2024 on the file of the Principal Sub Court, Thanjavur and the filing the above cases would go to prove the intention of the respondent/husband; that the petitioner has been facing severe threat from her husband and her life is in danger, if she entered into Kumbakonam for attending the hearings; that the petitioner's husband is an influenced person in that locality; that the petitioner has no other source of income except depending on her family members and that therefore, it is practically not possible for the petitioner to attend all the Court hearings before the Kumbakonam Court and Thanjavur Court.

5. The learned counsel for the respondent would submit that the petitioner has not made out any reason or ground for transferring the above two cases to the Court at Pudukkottai; that the respondent/husband is always ready and willing to live with the petitioner and their child, but the petitioner alone left the matrimonial home voluntarily and that is why, the respondent/husband was constrained to file a petition seeking restitution of conjugal rights; that originally their son was under the care and custody of the respondent, but the petitioner and the family members had forcibly taken the



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minor boy from the custody of the respondent and that is why, he was constrained to file the second petition seeking the custody of his minor son.

6. It is not in dispute that the petitioner along with her minor child is now residing at Rajagopalapuram, Pudukkottai District. It is also not in dispute that their minor child is now studying at Sri Ambal Matriculation School, Konaiyur, Konapattu, Pudukkottai District.

7. The learned counsel for the petitioner would submit that the petitioner finds it very difficult to travel from Pudukkottai to Kumbakonam and Thanjavur to attend the hearings along with her minor child.

8. The learned counsel appearing for the respondent would submit that they are having objections, but they have not raised any specific or serious objections.

9. 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 :



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“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.”

10. Considering the entire facts and circumstances of the case and taking note of the residence of the petitioner and the place of School of their minor son, this Court is of the view that the two cases in H.M.O.P.No.182 of 2024 and G.W.O.P.No.23 of 2024 are ordered to be withdrawn from the file of the Additional Sub Court, Kumbakonam and Principal District Court, Thanjavur respectively and transferred to the Family Court, Pudukkottai. The learned Additional Subordinate Judge, Kumbakonam and the learned Principal District Judge, Thanjavur, are hereby directed to transmit the entire records in H.M.O.P.No.182 of 2024 and G.W.O.P.No.23 of 2024 to the file of the Family



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Court, Pudukkottai, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundles, the learned Judge, Family Court, Pudukkottai, is directed to take up the petitions on file and proceed in accordance with law.

11. With the above direction, these Transfer Civil Miscellaneous Petitions stand allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

24.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das



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K.MURALI SHANKAR, J.

DAS

To

- 1.The Additional Subordinate Judge,
Kumbakonam, Thanjavur District.
- 2.The Judge, Family Court, Pudukkottai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Tr.C.M.P (MD)Nos.607 and 608 of 2024
and
C.M.P(MD)Nos.14544 and 14549 of 2024

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