



Tr.C.M.P(MD)No.623 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.02.2025

Pronounced on : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.623 of 2024

and

C.M.P(MD)No.14963 of 2024

M.Ganga Yazhini

... Petitioner

Vs.

K.Marudhu

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to pass an order to withdraw the case in H.M.O.P.No.410 of 2024 on the file of the Family Court, Trichy and transfer the same to the Sub Court, Devakottai.

For Petitioner : Mr.S.Madhavan

For Respondent : Mr.S.Vinayak



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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.410 of 2024 from the file of Family Court, Trichy and to transfer the same to the file of the Sub Court, Devakottai.

2. The petitioner is the wife of the respondent. Their marriage was solemnized on 26.01.2023 at Subbulakshmi Palace Thirurumana Mandapam, Karaikudi as per Hindu customs and rites. It is alleged that due to misunderstanding between the petitioner and respondent, they are living separately. It is further alleged that the petitioner was driven out from the matrimonial house and she is now residing with her parents at her native in Karaikudi. Thereafter, the respondent filed the petition in H.M.O.P.No.410 of 2024 before the Family Court, Trichy for divorce on the ground of cruelty.

3. The learned counsel for the petitioner has submitted that the petitioner was forced to leave the matrimonial home within one year from the marriage. She is now residing with her aged parents at her native Karaikudi and she is solely depending on her parents. She finds it very difficult to attend the Court at Trichy from Karaikudi. The learned counsel submitted that the convenience of the wife is the paramount consideration in case of transfer petition and relied on



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citation reported in **AIR 2002 SC 396 (Sumita Singh vs Kumar Sanjay And**

Anr.) In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the respondent objected the petition. The learned counsel further submitted that the petitioner is now working at Pudukottai as Junior Assistant in the government printing press. The petitioner was not driven out from the matrimonial home as stated by her and because of her adamant character, she herself left the respondent. The respondent has filed the petition U/s.13(1)(i-a) of the Hindu Marriage Act, 1955, for annulment of marriage on the ground of cruelty. The petitioner has filed this petition only to protract the case proceedings. He would further submit that the respondent has no objection to transfer the divorce case to the middle place preferably to Sub Court, Keeranoor.

5. Submissions of both side considered. It is not disputed that the marriage between them was solemnized as per Hindu Rites and Customs and they are husband and wife. Due to misunderstanding, they are living separately. It is alleged by the petitioner that she was forced to leave the matrimonial home. This petition is filed only for transfer of case. It is well settled proposition of law



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by the number of decisions of the Hon'ble Supreme Court that whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference.

6. The petitioner is now residing with her parents at Karaikudi which is not disputed by the respondent. Though the respondent contended that he finds it difficult to attend the Court on transfer, in case of transfer the case to Sub Court, the respondent can conduct the case through counsel and except for direction, his presence need not be required in all hearings as like Family Court. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, this Court is of the view that the present petition filed by the wife is to be allowed.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.410 of 2024 on the file of the Family Court, Trichy, is hereby withdrawn and transferred to the file of the Subordinate Court, Devakottai for disposal in accordance with law. The learned Judge, Family Court, Trichy is directed to transmit the entire records pertaining to the case in H.M.O.P.No.410 of 2024 to the transferee Court within a period of two weeks



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from the date of receipt of a copy of this order and the learned Sub Judge,

WEB COPY Devakottai, is directed to take the case on file and dispose of the same within a period of six months from the date of receipt of records. No costs. Consequently, the connected Miscellaneous Petition is closed.

20.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Family Court,
Trichy.
- 2.The Subordinate Court,
Devakottai.
- 3.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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and
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20.03.2025