



Tr.C.M.P(MD).No.627 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.627 of 2024
and
C.M.P(MD)No.14995 of 2024

S.A.Vajiha Begum : Petitioner

Vs.

S.Mohamed Ilyas : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the suit in O.S.No.25 of 2024 pending on the file of the Family Court, Dindigul and transfer the same to the Family Court, Madurai.

For Petitioner : Ms.A.S.Rajeswari

For Respondent : Mr.B.Janarth Kumar @ B.Janath Ahmed

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the suit in O.S.No.25 of 2024 pending on the file of the Family Court, Dindigul and transfer the same to the Family Court, Madurai.



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2. It is evident from the records that the marriage between the parties was solemnized on 06.08.2017. It is not in dispute that the respondent has filed a suit in O.S.No.25 of 2024, seeking dissolution of marriage and the same is pending on the file of the Family Court, Dindigul.

3.The learned counsel for the petitioner would submit that the petitioner is having one year old female child through the first marriage and she is residing at Madurai and finds it very difficult to travel to Dindigul to attend all the hearings.

4.The learned counsel for the respondent would submit that since he was attacked, he was constrained to lodge a complaint and subsequently, charge sheet came to be filed and the case in C.C.No.1302 of 2024 is pending before the Judicial Magistrate Court No.II, Madurai. He would further submit that in case of transfer, the respondent's appearance 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 be looked



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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. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Madurai, this Court is of the view that the case in O.S.No.25 of 2024, is ordered to be withdrawn from the file of the Family Court, Dindigul and transfer the same to the file of the Family Court, Madurai. Accordingly, the learned Judge, Family Court, Dindigul, is hereby directed to transmit the entire records in O.S.No.25 of 2024 to the file of the Family Court, Madurai, within a period of 10 days from the date of receipt of a



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copy of this order and on receiving the case bundle, the learned Judge, Family Court, Madurai, is directed to take up the petition on file and proceed in accordance with law. The respondent is at liberty to approach the concerned Court for dispensing with personal appearance. If such application is filed, the learned Judge is directed to consider the same and pass orders.

8. With the above directions, 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
das

To

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



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K.MURALI SHANKAR, J.

DAS

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