

Tr.C.M.P(MD).No.659 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.659 of 2024
and
C.M.P(MD)No.15948 of 2024

A.Syedali Shabana : Petitioner

Vs.

A.Siddhik : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.15 of 2023 on the file of the Family Court, Dindigul and transfer the same to the file of the Family Court, Madurai, so as to be tried along with the case in M.C.No.192 of 2023 and the suit in O.S.No.65 of 2024 for restitution of conjugal rights on the file of the Family Court, Madurai.

For Petitioner : Ms.G.K.Chitra Devi,

For Respondent : Mr.A.Joseph Jerry

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the case in H.M.O.P.No.15 of 2023 on the file of the Family Court, Dindigul and transfer the same to the file of the Family Court, Madurai, so as to



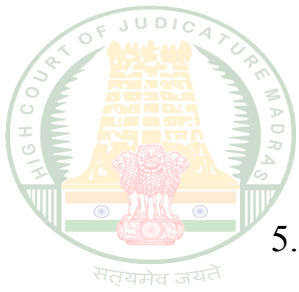
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be tried along with the case in M.C.No.192 of 2023 and the suit in O.S.No.65 of 2024 for restitution of conjugal rights on the file of the Family Court, Madurai.

2. It evident from the records that the marriage between the parties was solemnized on 16.10.2022. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.15 of 2023, seeking divorce and the same is pending on the file of the Family Court, Dindigul. It is also not in dispute that the petitioner has filed a maintenance case in M.C.No.192 of 2024 and the suit in O.S.No.65 of 2024, seeking restitution of conjugal rights and the same are pending on the file of the Family Court, Madurai.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Madurai and finds it very difficult to travel from Madurai to Dindigul to attend the hearings.

4. The learned counsel for the respondent would submit that they are having objections, but they have not raised any specific objections to transfer the case.



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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 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.”

6. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Madurai and also the fact that the petitioner's maintenance claim and the petition for restitution of conjugal rights are pending before the Family Court, Madurai, this Court is of the view that the



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petition in H.M.O.P.No.15 of 2023, 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 H.M.O.P.No.15 of 2023 to the file of the Family Court, Madurai, 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, Family Court, Madurai, is directed to take up the petition on file and proceed in accordance with law.

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

28.01.2025

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

To

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



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K.MURALI SHANKAR, J.

DAS

Order made in
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