



Tr.C.M.P.(MD)No.664 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.01.2025

Pronounced on : 24.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.664 of 2024

and

C.M.P.(MD)No.16032 of 2024

Miharaj Sultanan

... Petitioner

Vs.

Mohamed Riyaz

... Respondent

Prayer : The Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the case in O.S.No.5 of 2024 pending on the file of the learned Family Court, Vilupuram District and transfer the same to the file of the learned Family Court, Trichy.

For Petitioner : Mr.C.M.Arumugam

For Respondent : Mr.P.Balamurugan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case from the file of the Family Court, Viluppuram, in O.S.No.5 of 2024 and transfer the same to the file of the Family Court, Trichy.



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2. It is evident from the records that marriage between the petitioner and the respondent was solemnized on 21.01.2018 and due to their wedlock, they were blessed with two male children. It is not in dispute that the respondent has filed a suit in O.S.No.5 of 2024 seeking declaration that the marriage solemnized between the parties on 21.01.2018 is dissolved by way of irrevocable Talaq Namas pronounced by the respondent thrice and the same is pending on the file of the Family Court, Viluppuram. It is also not in dispute that the petitioner has filed a suit in O.S.No.1 of 2025 seeking restitution of conjugal rights and the same is pending on the file of the Family Court, Trichy.

3. The respondent has filed a counter statement raising objections.

4. The learned counsel appearing for the respondent would submit that the respondent met with a bike accident on 30.06.2023 and had serious spinal issues resulting in disk bulge and that the respondent was advised not to travel and hence, he is not in a position to travel 300 kms to attend the hearings, if the case is transferred.



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5. The learned counsel appearing for the petitioner would submit that the respondent has recovered from his ailments and that since the petitioner's case for restitution of conjugal rights is pending before the Family Court, Trichy, the above case may also be transferred to the said Court.

6. The learned counsel appearing for the respondent would submit that the respondent is not having any objection to transfer the case to the District Munsif Court at Trichy, for which, the learned counsel appearing for the petitioner would concede for the same. The learned counsel appearing for the respondent would further submit that if the case is transferred, the respondent may be permitted to appear through Video Conferencing before the concerned Court.

7. 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



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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.”

8. Considering the above facts and circumstances and taking note of the fact that the petitioner is residing at Trichy and her petition for restitution of conjugal rights is pending before the Family Court, Trichy and also taking note of the medical condition of the respondent, this Court is of the view that the case in O.S.No.5 of 2024 is ordered to be withdrawn from the file of the Family Court, Viluppuram, and transfer the same to the



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file of the Principal District Munsif Court, Trichy. Accordingly, the learned Judge of Family Court, Viluppuram, is hereby directed to transmit the entire records in O.S.No.5 of 2024 to the file of the Principal District Munsif Court, Trichy, 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 Principal District Munsif, Trichy, is directed to take up the suit on file and proceed in accordance with law. The learned Principal District Munsif, Trichy is directed to consider the respondent's request for appearing through Video Conferencing and he is at liberty to direct the respondent to appear personally, if necessary, subject to his health condition.

9. With the above direction, this Transfer Civil Miscellaneous Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

24.01.2025

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

