



Tr.C.M.P.(MD)No.673 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.673 of 2024
and
C.M.P.(MD)No.16200 of 2024

Sairabanu

... Petitioner

Vs.

I.Karthikeyan

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the case in H.M.O.P.No.633 of 2022 on the file of the learned Family Court, Kanyakumari District at Nagercoil and to transfer the same to the learned Sub Court, Valliyoor.

For Petitioner : Mr.V.Sasi Kumar

For Respondent : Mr.S.Palani Velayutham

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the



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case on the file of the Family Court, Kanyakumari District at Nagercoil, in H.M.O.P.No.633 of 2022 and transfer the same to the file of the Subordinate Court, Valliyoor.

2. Heard the learned counsel on either side.

3. It is evident from the records that the marriage between the petitioner and the respondent was solemnized on 20.01.2008 and due to their wed-lock, they were blessed with two male children. It is not in dispute that the petitioner has filed a complaint invoking the provisions of Domestic Violence Act and the same is pending in D.V.O.P.No.14 of 2022 on the file of the Judicial Magistrate, Valliyoor. It is also not in dispute that the respondent has filed a petition in H.M.O.P.No.633 of 2022 seeking divorce and the same is pending on the file of the Family Court, Kanyakumari District at Nagercoil.

4. The learned counsel appearing for the petitioner would submit that the petitioner has moved for maintenance before the Judicial Magistrate, Valliyoor and the same was ordered and the respondent has



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preferred an appeal and the same is pending in Crl.A.No.38 of 2023 on the file of the I Additional District Court, Tirunelveli.

5. The learned counsel appearing for the respondent would submit that distance between Nagercoil and Valliyoor is only 30 kms and the petitioner has not assigned any valid reason or ground to transfer the case.

6. But as rightly contended by the learned counsel appearing for the petitioner, DVC case has already been pending before the Judicial Magistrate Court, Valliyoor.

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 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



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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 also taking note of the facts that the petitioner is residing at Radhapuram Taluk, Tirunelveli District and that DVC is also pending before the Judicial Magistrate Court, Valliyoor, this Court is of the view that the case in H.M.O.P.No.633 of 2022 is ordered to be withdrawn from the file of the Family Court, Kanyakumari District at Nagercoil, and transfer the same to the file of the Subordinate Court, Valliyoor. Accordingly, the learned Judge of Family Court, Kanyakumari District at Nagercoil, is hereby directed to transmit the entire records in H.M.O.P.No.633 of 2022 to the file of the Subordinate Court, Valliyoor, within a period of 10 days from the date of



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receipt of a copy of this order and on receiving the case bundle, the learned Subordinate Judge, Valliyoor, is directed to take up the petition on file and proceed in accordance with law.

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

03.01.2025

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

To

1. The Judge,
Family Court, Kanyakumari District at Nagercoil.
2. The Subordinate Judge,
Valliyoor.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
Tr.C.M.P.(MD)No.673 of 2024
and
C.M.P.(MD)No.16200 of 2024

Dated : 03.01.2025