



Tr.C.M.P.(MD)No.687 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.687 of 2024
and
C.M.P.(MD)No.16400 of 2024

R.Vivekana

... Petitioner

Vs.

R.Muthukumar

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the case in H.M.O.P.No.288 of 2024 on the file of the Sub Court, Rajapalayam and transfer the same to the file of the Family Court, Madurai and try along with the petition in M.C.No.148 of 2024 on the file of the Family Court, Madurai for other reliefs.

For Petitioner : Mr.J.Lawrance

For Respondent : Mr.P.Athimoola Pandian

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the



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case on the file of the Subordinate Court, Rajapalayam, in H.M.O.P.No. 288 of 2024 and transfer the same to the file of the Family Court, Madurai.

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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 28.08.2019. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.288 of 2024 seeking divorce and the same is pending on the file of the Subordinate Court, Rajapalayam. It is also not in dispute that the petitioner has filed a maintenance case in M.C.No.148 of 2024 and the same is pending on the file of the Family Court, Madurai.

4. The learned counsel appearing for the petitioner would submit that the petitioner is residing at Madurai and finds it difficult to travel to Rajapalayam to attend the hearings.

5. The learned counsel appearing for the respondent would submit that the petitioner's brother had trespassed into the respondent's house and



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damaged household articles, for which, the respondent was constrained to lodge a complaint before the Sellur Police Station and after enquiry, the petitioner's brother was directed to pay for the damaged articles and that the petitioner's brother has been threatening the respondent.

6. 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.



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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 above facts and circumstances and also taking note of the fact that the petitioner is residing at Madurai and also the fact that the maintenance case is pending before the Family Court, Madurai, this Court is of the view that the case in H.M.O.P.No.288 of 2024 is ordered to be withdrawn from the file of the Subordinate Court, Rajapalayam, and transfer the same to the file of the Family Court, Madurai. Accordingly, the learned Subordinate Judge, Rajapalayam, is hereby directed to transmit the entire records in H.M.O.P.No.288 of 2024 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 of Family Court, Madurai, is directed to take up the petition on file and proceed in accordance with law. The respondent is at liberty to lodge a complaint before the Family Court, Madurai itself if he is threatened in future by the petitioner's side.

8. With the above direction, the Transfer Civil Miscellaneous



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Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

22.01.2025

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

To

1. The Subordinate Judge,
Rajapalayam.
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.

csn

Order made in
Tr.C.M.P.(MD)No.687 of 2024
and
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Dated : 22.01.2025