



Tr.C.M.P.(MD)No.700 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.700 of 2024
and
C.M.P.(MD)Nos.16897 of 2024 and 727 of 2025

Vasumathi

... Petitioner

Vs.

Ganeshan

... Respondent

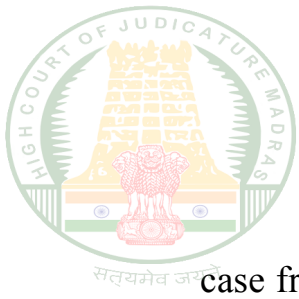
Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw and transfer the case in H.M.O.P.No.67 of 2024 from the file of the learned Sub Court, Tirupathur to the Family Court, Trichy.

For Petitioner : Mr.S.Paul Muruges

For Respondent : Mr.R.Alagumani

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the



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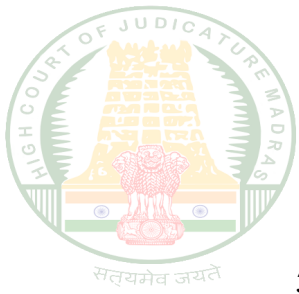
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case from the file of the Subordinate Court, Tirupathur, in H.M.O.P.No.67 of 2024 and transfer the same to the file of the Family Court, Trichy.

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 08.11.1990. It is not in dispute that the petitioner has laid a maintenance claim and the same is pending in M.C.No.1 of 2024 before the Family Court, Trichy. It is also not in dispute that the respondent has filed a petition in H.M.O.P.No.67 of 2024 seeking divorce and the same is pending on the file of the Subordinate Court, Tirupathur.

4. The learned counsel appearing for the petitioner would submit that after filing of the maintenance claim, the respondent has purposely filed the divorce petition and that the petitioner has been living with his daughter at Trichy and finds it difficult to travel to Tirupathur to attend the hearings.



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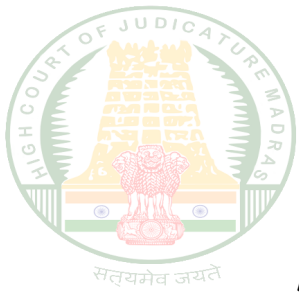
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5. The learned counsel appearing for the respondent would submit that the respondent has met with an accident and is not in a position to travel long distance and that the respondent underwent hip surgery and also undergone surgery for right open meshplasty in 2023.

6. The learned counsel appearing for the petitioner would submit that the respondent has already recovered and is in a position to travel.

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 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

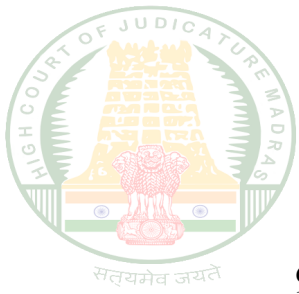


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behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the 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 fact that the petitioner is residing at Trichy and her maintenance claim is pending before the Family Court, Trichy, this Court is of the view that the case in H.M.O.P.No.67 of 2024 is ordered to be withdrawn from the file of the Subordinate Court, Tirupathur, and transfer the same to the file of the Family Court, Trichy. Accordingly, the learned Subordinate Judge, Tirupathur, is hereby directed to transmit the entire records in H.M.O.P.No.67 of 2024 to the file of the Family 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 Judge of Family Court, Trichy, is directed to take up the petition on file and proceed in accordance with law.



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9. At this juncture, the learned counsel appearing for the respondent would submit that the respondent is aged 60 years and is having medical issues and that therefore his personal appearance may be dispensed with.

10. In the result, the Transfer Civil Miscellaneous Petition stands allowed. The respondent is at liberty to move the learned Judge, Family Court, Trichy for dispense with his personal appearance and on such application is being moved, the learned Judge is directed to consider the same and pass orders. Consequently, connected Miscellaneous Petitions are closed. No costs.

28.01.2025

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

To

1. The Subordinate Judge,
Tirupathur.
2. The Judge,
Family Court, Trichy.
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
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and
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Dated : 28.01.2025