



Tr.C.M.P.(MD)No.716 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.716 of 2024
and
C.M.P.(MD)No.17272 of 2024

Pillammal

... Petitioner

Vs.

K.Kalaiselvam

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw H.M.O.P.No.506 of 2024 from the file of Family Court, Theni, Theni District and transfer the same to the Sub Court, Melur, Madurai District and consequently direct the transferee court to deal with the said case in accordance with law.

For Petitioner : Mr.P.Saravanan

For Respondent : No appearance



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ORDER

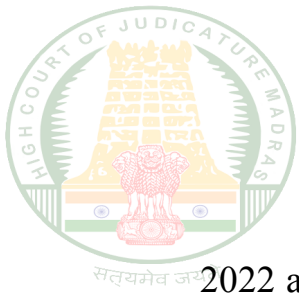
The Transfer Civil Miscellaneous Petition is filed to withdraw the case from the file of the Family Court, Theni, in H.M.O.P.No.506 of 2024 and transfer the same to the file of the Subordinate Court, Melur, Madurai District.

2. Despite intimation and private notice came to be served on the father of the respondent, the respondent has not chosen to enter into appearance.

3. Heard the learned counsel appearing for the petitioner.

4. It is evident from the records that the marriage between the petitioner and the respondent was solemnized on 12.06.2014.

5. The learned counsel appearing for the petitioner would submit that the respondent has earlier filed a petition in O.P.No.825 of 2022 seeking divorce and the same was pending before the Family Court, Theni, that the petitioner has filed a transfer petition in Tr.C.M.P.(MD)No.475 of



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2022 and the same was ordered and the case was transferred to the Family Court, Madurai and the same was taken on file in H.M.O.P.No.1390 of 2022 and that subsequently the respondent allowed the petition to be dismissed for default. He would further submit that subsequently the respondent has filed the present petition in H.M.O.P.No.506 of 2024 seeking divorce before the Family Court, Theni.

6. The learned counsel appearing for the petitioner would submit that the petitioner is now residing at Melur Taluk, Madurai District and finds it difficult to travel to Theni to attend the hearings.

7. It is pertinent to note that the respondent, by allowing the earlier petition dismissed for default, has wilfully disregarded the orders of this Court and subsequently filed the present petition for divorce before the very same Court.

8. 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



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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.”

9. Considering the above facts and circumstances and also taking note of the fact that the petitioner is residing at Madurai District, this Court is of the view that the case in H.M.O.P.No.506 of 2024 is ordered to be withdrawn from the file of the Family Court, Theni, and transfer the same to the file of the Subordinate Court, Melur, Madurai District.



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Accordingly, the learned Judge, Family Court, Theni, is hereby directed to transmit the entire records in H.M.O.P.No.506 of 2024 to the file of the Subordinate Court, Melur, Madurai District, 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 Subordinate Judge, Melur, Madurai District, is directed to take up the petition on file and proceed in accordance with law.

10. 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
csm

To

1. The Judge,
Family Court, Theni.
2. The Subordinate Judge,
Melur, Madurai District.
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.716 of 2024
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Dated : 28.01.2025