

Tr.C.M.P(MD)No.718 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.03.2025

Pronounced on : 04.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.718 of 2024

and

C.M.P(MD)No.17310 of 2024

B.Bharathi

... Petitioner

Vs.

R.Karuppiah Gopi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw G.W.O.P.No.230 of 2024 on the file of the Family Court, Dindigul and transfer the same to the file of the Family Court, Theni.

For Petitioner : Ms.M.Mario Vinola

For Respondent : Mr.A.Mohamed Riyaz



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the G.W.O.P.No.230 of 2024 on the file of the Family Court, Dindigul and to transfer the same to the file of the Family Court, Theni.

2. The petitioner herein is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 24.02.2012 as per Hindu rites and customs and out of wedlock, they have been blessed with two children, viz., a daughter named R.K.Thanikka born on 18.02.2014 and a son R.K.Jayalingesh, born on 22.12.2017. Due to misunderstanding, the petitioner and the respondent are living separately. The petitioner and her children are residing with her parents at Theni. Thereafter, the respondent filed the petition in G.W.O.P.No.230 of 2024 before the Family Court, Dindigul, seeking custody of minor children and the same is pending. Now, this petition is filed by the petitioner for transfer of GWOP to Theni.

3. The learned counsel for the petitioner has submitted that the petitioner is the second wife of the respondent. Due to unbearable troubles given by the respondent and his mother, the petitioner was forced to leave the matrimonial home. At present, the petitioner is residing along with her parents at Theni and



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her children are studying at Theni. It is further argued that the respondent is using to give false compromise and that the respondent participated in the mediation centre for amicable settlement and agreed to the same, but he would not come forward to execute the same. Thereby, the petitioner was given untold mental agony by the respondent. Hence, the petitioner prays for maintenance from the respondent and relied on the order of this Court passed in **Tr.C.M.P.No.715 of 2019, dated 27.02.2020 (N.Archana vs. M.S.Yuvaraj)**, wherein divorce was granted to the parties therein.

4. The learned counsel for the respondent has not raised any objection for transfer of the case to Theni.

5. I have carefully gone through submissions of both sides and also the copy of order produced by the petitioner is considered. It is not in dispute that the marriage between them was solemnized as per Hindu rites and customs, and they have been blessed with two children. Due to misunderstanding, they are living separately. No doubt, now the petitioner and her children are staying with her parents at Theni, where the children are also studying. From both side argument, there was rival claim prevailing between them for custody of the children, finally, the respondent/father of the children came to file

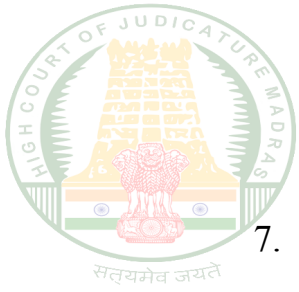


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G.W.O.P.No.230 of 2024, seeking custody of the child. Moreover, these facts to

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6. It is also noted from the records that both parties attended the mediation and settlement was arrived. Further sequence of events happened after settlement before the mediation, has been stated by the petitioner in the additional affidavit filed by the petitioner, dated 14.03.2025. Since the respondent has not raised any objection to allow this petition seeking transfer of the case, the contents of the additional affidavit need not be discussed in the petition. It is well settled proposition of law by the number of decisions of the Hon'ble Supreme Court that whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference. The petitioner is now residing with her parents at Theni, which is not disputed by the respondent. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, this Court is of the view that the present petition filed by the wife is to be allowed with costs.



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7. In the result, this Transfer Civil Miscellaneous Petition is allowed.

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The petition in G.W.O.P.No.230 of 2024 on the file of the Family Court, Dindigul, is hereby withdrawn and transferred to the file of the Family Court, Theni, for disposal in accordance with law. The learned Judge, Family Court, Dindigul, is directed to transmit the entire records pertaining to the case in G.W.O.P.No.230 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. The respondent is directed to pay the cost of Rs.10,000/- (Rupees Ten Thousand only) to the petitioner for the inconvenience caused by the respondent after attending mediation within a period of three weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

04.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD



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To

1. The Family Court,
Dindigul.
2. The Family Court,
Theni.
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.
4. R. Karuppiyah Gopi,
S/o. R. Rajagopal,
Door No. 8/1E, Jeya Murugan Traders,
Natham Main Road, Vembarpatti Village,
Gopalpatti, Dindigul District.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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and
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