



Tr.C.M.P.(MD)No.727 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.727 of 2024
and
C.M.P.(MD)No.17474 of 2024

Kalpana

... Petitioner

Vs.

Rajiv

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the case bearing H.M.O.P.No.295 of 2024 on the file of the Sub Court, Kovilpatti, Thoothukudi District and subsequently transfer the same to the file of the Sub Court at Tirumayam, Pudukottai District forthwith.

For Petitioner : Mr.S.Jeyakumar

For Respondent : Mr.N.Ananda Kumar



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ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Subordinate Court, Kovilpatti, in H.M.O.P.No.295 of 2024 and transfer the same to the file of the Subordinate Court, Tirumayam.

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 29.08.2014. It is not in dispute that both the parties are practising advocate. It is also not in dispute that the respondent has filed a petition in H.M.O.P.No.295 of 2024 seeking divorce and the same is pending on the file of the Subordinate Court, Kovilpatti.

4. The learned counsel appearing for the petitioner would submit that the petitioner is practising at Tirumayam and finds it difficult to travel from Tirumayam to Kovilpatti to attend the hearings.



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5. The learned counsel appearing for the respondent would submit that the respondent has now shifted his practise to Kovilpatti and is residing with his parents.

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. Given the prevailing socioeconomic paradigm in the Indian



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society, generally, it is the wife's convenience which must be looked at while considering transfer.", the bench observed."

7. The learned counsel on either side would submit that since the petitioner and the respondent were practising earlier at Tirumayam and the petitioner is now practising at Tirumayam, the case may be transferred to Pudukkottai.

8. Considering the above facts and circumstances and also taking note of the submissions made on either side, this Court is of the view that the case in H.M.O.P.No.295 of 2024 is ordered to be withdrawn from the file of the Subordinate Court, Kovilpatti, and transfer the same to the file of the Family Court, Pudukkottai. Accordingly, the learned Subordinate Judge, Kovilpatti, is hereby directed to transmit the entire records in H.M.O.P.No.295 of 2024 to the file of the Family Court, Pudukkottai, 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, Family Court, Pudukkottai, is directed to take up the petition on file and proceed in accordance with law.



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

08.01.2025

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

To

1. The Subordinate Judge,
Kovilpatti.
2. The Judge,
Family Court, Pudukkottai.
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.727 of 2024
and
C.M.P.(MD)No.17474 of 2024

Dated : 08.01.2025