

Tr.C.M.P(MD)No.725 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.03.2025

Pronounced on : 25.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**Tr.C.M.P(MD)No.725 of 2024**

**and**

**C.M.P(MD)No.17463 of 2024**

Sivasankari

... Petitioner

Vs.

1. Madhusudhanan  
Through his power agent  
P.Sivakumar

2.Sabarinath

3.Anbumani

... Respondent

**PRAYER :** Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to pass an order to withdraw the case in H.M.O.P.No. 149 of 2024 on the file of the Family Court, Tiruchirappalli, Tiruchirappalli District and subsequently transfer the same to the file of the Sub Court, Tiruvarur, Tiruvarur District.

|                |                           |
|----------------|---------------------------|
| For Petitioner | : Mr.S.Jeyakumar          |
| For R1         | : Mr.T.J.Ebenezer Charles |
| For R2 & R3    | : No Appearance           |



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## ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in H.M.O.P.No.149 of 2024 from the file of Family Court, Tiruchirappalli and to transfer the same to the file of the Subordinate Court, Tiruvarur.

2. The petitioner herein is the wife of the first respondent. The marriage between the petitioner and the first respondent was solemnized on 18.05.2017 according to Hindu rites and customs and out of wedlock, they were blessed with three children. It is alleged that due to harassment and torture at the instance of the first respondent and his parents, the petitioner was deserted by the first respondent, she has been separately living at Tiruvarur. Thereafter, the respondent filed the petition in H.M.O.P.No.149 of 2024 before the Family Court, Tiruchirappalli, seeking divorce against the petitioner.

3. The learned counsel for the petitioner has submitted that the petitioner was deserted by the first respondent and his family members. The children were forcibly taken away by the first respondent. The petitioner is living with her mother at Tiruvarur and also the petitioner is doing B.Ed. in a college at



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Tiruvavarur. The petitioner lodged a police complaint against the first respondent who is said to have assaulted the petitioner by snatching her thali chain when she visited her children at school. She has no means to travel to Tiruchirappalli. She has also filed the petition for restitution of conjugal rights and maintenance case before the Court at Tiruvavarur. The wife's convenience has to be looked into while seeking transfer of matrimonial cases. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the first respondent filed a counter and objected the petition. The learned counsel further submitted that the first respondent is working at abroad and maintained his family by sending money. The petitioner developed illegal contacts with the second respondent and spent the money and jewels for him and also given custody of the same to the third respondent. The petitioner leaving the first respondent and their children, eloped with the second respondent. Due to illegal act of the petitioner, the first respondent left the job at abroad and the petitioner is residing with her paramour. The children are in the custody of the first respondent and the first respondent is looking after them. The first respondent filed the petition for divorce on the ground of adultery. Moreover, the petitioner has filed GWOP.No.258 of 2024 before the Family Court, Tiruchirappalli. As per Section 9 of the Guardian and Wards Act, the said



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petition cannot be transferred to the Sub Court, Tiruvarur from the jurisdictional Court of residence of minor children i.e., Family Court, Trichy. The first respondent has filed the additional typed sets along with photos of the petitioner with the alleged second respondent and also copies of FIR for returning jewels from the third respondent.

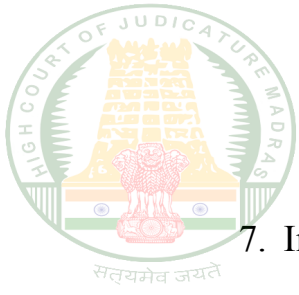
5. Submissions of both side considered. The first respondent and the petitioner are husband and wife and out of wedlock they have three male children Rahul, Srikanth and SriSaran. Though the petitioner alleged that she was deserted by the first respondent and his family members and the contents of illegal contacts of the petitioner stated by the first respondent, they could be decided by the trial Court after adducing evidences. However, the fact remains that the children aged 7, 4 and 4 years respectively are residing along with the first respondent at Trichy. The first respondent stated that he left his job at abroad and is looking of his children and his aged mother. The petitioner has filed GWOP.No.258 of 2024 before the Family Court, Tiruchirapalli for custody of the children and the same is pending.

6. The first respondent has produced photos of the petitioner which would show, she is with some third man, who is said to be the second respondent.



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Moreover, the second respondent has not appeared despite service of summons and also his name has been printed. The jewels were taken back from the third respondent as seen from the additional typed set. Moreover, the petitioner lodged a complaint in FIR.No.473 of 2024 before the Sessions Court Police station, Trichy City, wherein she stated Trichy address. Of course, the convenience of the wife has to be looked into predominantly in case of transfer of matrimonial cases, but the facts of this case do not deserve the petitioner to claim such convenience, since prima facie the petitioner's residence at Tiruvarur is not substantiated and also GWOP.No.258 of 2024 is pending before the Family Court, Trichy. It is not disputed that the children are residing along with the first respondent, who filed the divorce petition on the ground of adultery. The first respondent has also produced sufficient materials in this case showing the payment of education fee for his children and also photos of the petitioner with the second respondent. The respondents 2 and 3 remained absent in this case. Therefore, considering the above facts and circumstances, this Court is of the view that the petition has no merits for transfer of divorce petition to Tiruvarur.



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

WEB COPY No costs. Consequently, the connected Miscellaneous Petition is closed.

**25.03.2025**

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

To

1.The Family Court,  
Tiruchirappalli,  
Tiruchirappalli District

2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J.**

VSD

**Pre - Delivery Order made in**  
Tr.C.M.P(MD)No.725 of 2024  
and  
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**25.03.2025**