



Tr.C.M.P(MD)No.736 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2025

Pronounced on : 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.736 of 2024

and

C.M.P(MD)No.17650 of 2024

1.Rajababu
2.Devaki
3.Swathipriya

... Petitioners

Vs.

Rajkumar

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the suit in O.S.No.108 of 2024 from the file of the District Munsif Court at Melur, Madurai and to transfer the same to the file of the District Munsif Court at Thiruvottriyur, Thiruvallur.

For Petitioners : Mr.B.Gowtham Arun
For Respondent : Mr.S.Vanchinathan



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the O.S.No.108 of 2024 on the file of the District Munsif Court, Melur, Madurai District and to transfer the same to the file of the District Munsif Court, Thiruvottriyur, Thiruvallur District.

2. The third petitioner herein is the wife of the respondent. The third petitioner is the daughter of the petitioners 1 and 2. The third petitioner and the respondent are residing separately. The third petitioner is having one year old baby and is residing along with her parents at Thiruvottriyur, Chennai. The third petitioner has filed D.V.C.No.6 of 2024 before the Judicial Magistrate Court, Thiruvottriyur, against the respondent. The respondent has filed H.M.O.P.No.4797 of 2023 against the third petitioner for restitution of conjugal rights and the case is pending before the VII Additional Principal Family Court, Chennai. The respondent has also filed a suit in O.S.No.108 of 2024 on the file of the District Munsif Court, Melur, for permanent injunction against the petitioners.

3. The learned counsel for the petitioners has submitted that the third petitioner was forced to leave the matrimonial home by the respondent and that the third petitioner is living with her parents at Thiruvottriyur along with her one year



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old baby. The respondent has filed the petition for restitution of conjugal rights before the Family Court, Chennai, whileso he also filed a suit before the Court at Melur for injunction against his wife and parents-in-law restraining them from visiting his house. The legal acts of the respondent is not valid one and only in order to harass the petitioners, he has filed the suit. The third petitioner is depending on her parents/petitioners 1 and 2 herein without any means and she is struggling for her day to day life and hence, she filed D.V.C.No.6 of 2024 before the Judicial Magistrate Court, Thiruvottriyur. She finds it very difficult to travel 450 km to attend the Court at Melur. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the respondent objected the petition. The learned counsel further submitted that the respondent filed the suit for injunction, in which the petitioners can be able to engage the counsel to conduct the case. The case is not related to the matrimonial dispute. Hence, this petition may be dismissed.

5. Submissions of both side considered. It is not disputed that the third petitioner and the respondent are spouses and that they have been blessed with a child. Due to misunderstanding, they are living separately. The respondent has admitted that he has filed the petition for restitution of conjugal rights and the same



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is pending before the Family Court, Chennai and also the case under the Domestic

Violence Act filed by the third petitioner is pending before the Judicial Magistrate Court, Thiruvottriyur. Of course, the respondent filed the suit for permanent injunction, however, the relief sought therein is to restrain his wife and parents-in-law from entering into his house at Madurai, which is also deemed to be arisen out of the matrimonial dispute.

6. 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 Thiruvottriyur. Already two cases are pending, one at Thiruvottriyur and another one at Chennai. 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.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The suit in O.S.No.108 of 2024 on the file of the District Munsif Court, Melur, is hereby withdrawn and transferred to the file of the District Munsif Court, Thiruvottriyur, for disposal in accordance with law. The learned District Munsif,



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Melur, is directed to transmit the entire records pertaining to the case in O.S.No.

108 of 2024 to the transferee Court, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.04.2025

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

To

- 1.The District Munsif Court,
Melur.
2. The District Munsif Court,
Thiruvottriyur,
Thiruvallur District.
- 3.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
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