

Tr.CMP(MD)No.753 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.03.2025

Pronounced on : 04.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.CMP(MD)No.753 of 2024

and

C.M.P(MD)No.18029 of 2024

Rajalakshmi

... Petitioner

Vs.

N.Prabakaran

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the H.M.O.P.No.146 of 2024 on the file of the Sub-Ordinate Court, Tirumangalam, Madurai District and transfer the same to the Sub-Ordinate Court, Tuticorin, Tuticorin District.

For Petitioner : Mr.KA.Ramakrishnan

For Respondent : Mr.D.Senthil



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the case in H.M.O.P.No.146 of 2024 on the file of the Subordinate Court, Tirumangalam and to transfer the same to the file of the Subordinate Court, Tuticorin.

2. The petitioner herein is the wife of the respondent. Their marriage was solemnized on 03.06.2009 according to Hindu customs and out of wedlock, they are blessed with a son. It is alleged that because of misunderstanding, the petitioner and the respondent are residing separately. Thereafter, the respondent filed the petition in H.M.O.P.No.146 of 2024 before the Subordinate Court, Tirumangalam of Madurai District, seeking for divorce against the petitioner.

3. The learned counsel for the petitioner has submitted that the petitioner was forced to leave the matrimonial home and she is now residing at Tuticorin and she is working at Tuticorin. The respondent stated that both the petitioner and respondent are living at Bangalore, so the Court at Madurai District does not have any jurisdiction. The respondent has not filed any petition before the Court at Bangalore. So, the respondent has falsely stated about the living of the petitioner. She is now residing at Tuticorin. She has no means to travel 150 km to conduct



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the case at Tirumangalam from Tuticorin. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition. In support of his argument, the learned counsel relied on the order of the Madras High Court passed in **Tr.CMPNo.893 of 2018, dated 05.07.2019 (E.Tamilarasi vs. N.Jayaprakash)**.

4. The learned counsel for the respondent filed a counter and objected the petition. The learned counsel further submitted that the petitioner is living with the respondent at Bangalore only. The respondent's son is studying at Bangalore and the respondent is paying the education fee for him. The petitioner has not produced any piece of document to show that she is residing at Tuticorin. The petitioner has filed this petition only to harass the respondent.

5. Submissions of both side considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living separately and it is alleged by the petitioner that she was driven out from the matrimonial home. In such circumstances, the respondent filed the petition for divorce before the Subordinate Court, Tirumangalam of Madurai District. It is now stated by the petitioner that she is now residing at Tuticorin and has employment at Tuticorin only. It is the specific case of the respondent that the petitioner is residing only at

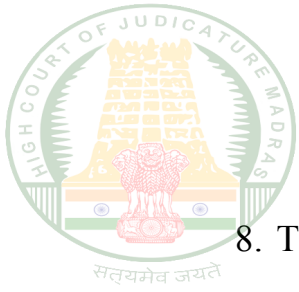


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Bangalore in the residence of the respondent and that the respondent has paid the school fee for his son, who is studying at Bangalore.

6. The petitioner's argument is that even for the sake of argument, if both parties are residing at Bangalore, the respondent could not file divorce petition before the Court at Madurai District, which is not having jurisdiction. The respondent's side has not been able to put forth contra argument for the above petitioner's submission. Moreover, the respondent has not assigned any reason why he has chosen to file divorce petition before the Subordinate Court, Thirumangalam, while he claims that both parties are residing at Bangalore. And also, the respondent has not placed any contra material against the petitioner's present version that she is residing at Tuticorin and working there.

7. It is well settled proposition of law by the Hon'ble Supreme Court in catena cases 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 transfer is sought to the Sub Court and therefore, his appearance need not necessary for each and every hearing like Family Court, except on material hearing or upon specific direction by the Court.



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8. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases and also considering the submissions of both sides, this Court is inclined to allow this petition.

9. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.146 of 2024 on the file of the Subordinate Court, Thirumangalam, is hereby withdrawn and transferred to the file of the Subordinate Court, Tuticorin, for disposal in accordance with law. The learned Subordinate Judge, Thirumangalam, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.146 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

04.06.2025

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

To
1.The Subordinate Court, Thirumangalam.
2.The Subordinate Court, Tuticorin
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
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