



Tr.CMP.(MD)No.783 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2025

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THE HON'BLE MR JUSTICE P. VADAMALAI

Tr.CMP.(MD)No.783 of 2024

and

C.M.P.(MD)No.18884 of 2024

K.Kalpana

.. Petitioner

Vs.

M.Saravanan

.. Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in H.M.O.P. No.204 of 2024 on the file of the Family Court, Theni and transfer the same to the file of the Sub Court, Poonamallee, Thiruvallur District.

For Petitioner : Mr.S.Vikram

For Respondent : Mr.I.Romeo Roy Alfred



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ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the proceeding in H.M.O.P.No.204 of 2024 on the file of the Family Court, Theni and transfer the same to the file of the Sub Court, Poonamallee.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 10.12.2001 at Veerapandi Kanishvaramudaiyar Temple in Theni District as per the Hindu Rites and Customs. Out of the wedlock, a male child was born on 20.10.2022.

3. Due to disputes and differences, the parties have separated, and the respondent/husband has initiated a proceeding in H.M.O.P.No.204 of 2024 on the file of the Family Court, Theni seeking divorce.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.



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WEB COPY 5. The learned counsel for the petitioner would submit that the petitioner is now residing with her child at Chennai under the care of her parents. The distance between Chennai and Theni is around 1000 Kms to and fro, and the petitioner/wife, being a lady, finds it very difficult to travel such a long distance for attending every Court hearing along with the two year old child. Hence, she seeks transfer of proceeding in H.M.O.P.No.204 of 2024 from the file of the Family Court, Theni to the file of the Sub Court, Poonamallee.

6. Per contra, the learned counsel for the respondent has filed a counter and would submit that the respondent/husband had already initiated a proceeding, in H.M.O.P.No.313 of 2023, on the file of the Family Court, Theni seeking restitution of conjugal rights. The said proceeding was, later, transferred to the file of the Sub Court, Poonamallee vide order of the Principal Seat of this Court, dated 13.12.2023, in Tr.C.M.P.No.995 of 2023. Despite the said proceeding has been transferred to the file of the Sub Court, Poonamallee, the petitioner/wife did not attend the Court hearings at Poonamallee and remained *ex parte*. Thereafter, the respondent, under serious prejudice, withdrawn the said proceeding and was constrained to



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initiate the present proceeding under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 seeking divorce. Further, he would submit that only in order to drag on the case and to harass the respondent, the petitioner/wife has deliberately filed the present petition seeking transfer of the proceeding in H.M.O.P.No.204 of 2024 from the file of the Family Court, Theni to the file of the Sub Court, Poonamallee.

7. It is well settled proposition of law 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.

8. Considering the overall facts and circumstances of the case, and also considering the convenience of the wife, this Court is inclined to allow this petition.

9. The learned Judge, Family Court, Theni is directed to transmit the entire records pertaining to the case, in H.M.O.P.No.204 of 2024, to the file of the Sub Court, Poonamallee within a period of three weeks from the date of receipt of a copy of this order, and on receipt of such records, the learned



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Judge, Sub Court, Poonamallee is directed to take the case on file and dispose of the same as expeditiously as possible in accordance with law.

10. Accordingly, this Transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

12.02.2025

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
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P. VADAMALAI, J.

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To

1.The Family Court,
Theni.

2.The Sub Court,
Poonamallee, Thiruvallur District.

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