



Tr.C.M.P(MD)No.779 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.03.2025

Pronounced on : 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.779 of 2024

and

C.M.P(MD)No.18841 of 2024

K.Pavithra

... Petitioner

Vs.

1.G.Kulanthaivel

2.M.Iskki Muthu

... Respondents

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.214 of 2024 on the file of the Family Court, Tirunelveli District and transfer to the Family Court, Madurai District.

For Petitioner	: Mr.K.Dinesh
For R1	: Mr.R.J.Karthick
For R2	: No Appearance



Tr.C.M.P(MD)No.779 of 2024

ORDER

WEB COPY

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the H.M.O.P.No.214 of 2024 on the file of Family Court, Tirunelveli and to transfer the same to the file of the Family Court, Madurai.

2. The petitioner is the wife of the first respondent. Their marriage was solemnized on 08.12.2019 as per Hindu rites and customs and out of wedlock, they have a son named K.Vetri Mithran, who is now three years old. Due to misunderstanding arose between them, they are living separately. The petitioner is now residing with her parents along with her child. Thereafter, the first respondent filed the petition in H.M.O.P.No.214 of 2024 before the Family Court, Tirunelveli, for divorce.

3. The learned counsel for the petitioner has submitted that when the petitioner was pregnant, she was thrown out from her matrimonial home by the first respondent as the parents of the petitioner were not able to satisfy the dowry demands made by the first respondent. The first respondent is an alcoholic and used to abuse the petitioner and suspect her. The petitioner is residing with her aged parents at Madurai along with her three years old male child. She solely depends on her parents for day to day life and she finds it very difficult to travel



Tr.C.M.P(MD)No.779 of 2024

340 kms from Madurai to Tirunelveli up and down. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the first respondent objected the petition. The learned counsel further submitted that the first respondent came to know about the illegal contact between the petitioner and the second respondent and he questioned the petitioner about the same by showing authenticated materials, but she kept mum. Hence, she left the matrimonial home at her instance. The first respondent filed the petition for divorce on the ground of adultery. However, he has no objection to transfer the case to the middle place, either at Sattur or at Virudhunagar.

5. Notice sent to the second respondent returned unclaimed and his name was printed in the cause list, but he failed to appear for hearing.

6. Submissions of both side considered. It is not disputed that the marriage between the petitioner and the first respondent was solemnized as per Hindu rites and customs and out of wedlock, they have a son. Due to misunderstanding, they are living separately. It is alleged by the petitioner that she was driven out from the matrimonial home. It is alleged by the first respondent that the petitioner has illegal



Tr.C.M.P(MD)No.779 of 2024

contact with the second respondent and so he filed the petition for divorce on adultery ground. However, the rival allegations cannot be looked into in this petition and the same could be adjudicated in the main divorce petition.

7. This petition is filed seeking only for transfer of case arose out of the matrimonial dispute. 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.

8. The petitioner is now residing with her parents at Madurai, which is admitted by the first respondent. The first respondent sought transfer of the case to the middle place at Sattur or Virudhunagar. The transfer of case at the middle place would not give any purpose since both parties have to travel from their hometown. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, and also submissions of both sides, this Court is of the view that the present petition filed by the wife is to be allowed.

9. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.214 of 2024 on the file of the Family Court,



Tr.C.M.P(MD)No.779 of 2024

Tirunelveli, is hereby withdrawn and transferred to the file of the Family Court, Madurai, for disposal in accordance with law. The learned Judge, Family Court, Tirunelveli, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.214 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 Family Court,
Tirunelveli.
2. The Family Court,
Madurai
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P(MD)No.779 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)No.779 of 2024
and
C.M.P(MD)No.18841 of 2024

22.04.2025