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Tr.C.M.P(MD)No.778 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.02.2025

Pronounced on : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.778 of 2024

and

C.M.P(MD)No.18827 of 2024

K.Divya

... Petitioner

Vs.

K.Thangaperumal

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the divorce petition filed by the respondent in H.M.O.P.No.390 of 2024 pending on the file of the Sub Court, Ambattur to the Sub Court, Tiruchendur.

For Petitioner : Mr.V.Meenakshi Sundaram

For Respondent : Ms.P.Uma

ORDER

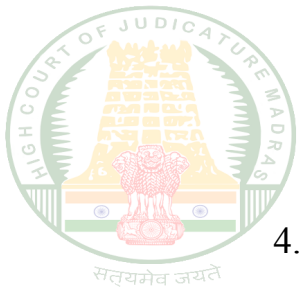
This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the H.M.O.P.No.390 of 2024 from the file of the Sub Court, Ambattur and to transfer the same to the file of the Sub Court, Tiruchendur.



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WEB COPY2. The petitioner herein is the wife of the respondent. Their marriage has been solemnized on 23.01.2023 at Palaniappapuram of Thoothukudi according to Hindu customs. It is alleged that as the respondent and his family members tortured the petitioner by demanding more dowry and the petitioner was driven out from the matrimonial house. She is now residing with her parents at native in Thoothukudi District. Thereafter, the respondent filed petition in H.M.O.P.No.390 of 2024 before the Sub Court, Ambattur seeking for declaration that the marriage is null and void.

3. The learned counsel for the petitioner has submitted that the petitioner was forced to leave the matrimonial home after one year from the marriage. She is now residing with her aged parents at her native village situated in Thoothukudi district. Her parents are coolie workers and she is depending on her parents without any means and she is struggling for her day to day life. She finds very difficult to travel 1200 km to attend the Court at Ambattur. Moreover, the respondent has not been paying any maintenance towards the petitioner. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.



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4. The learned counsel for the respondent objected the petition.

The learned counsel further submitted that the petitioner was not driven out from the matrimonial home as stated by her. The respondent has filed the petition U/s.12(1)(c) of the Hindu Marriage Act, for annulment of marriage. The petitioner has filed this petition only to protract the case proceedings.

5. Submissions of both side considered. It is not disputed that the marriage between them was solemnized as per Hindu rites and customs and they are husband and wife. 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 respondent that the respondent has physical deficiency and suppressing the same she was given marriage. However, the contentions would be decided only in the main petition after adducing evidence by the trial Court. This petition is only for transfer of case.

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 Thoothukudi District which



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is not disputed by the respondent. Moreover, the marriage has also been solemnized at Thoothukudi district. 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 petition in H.M.O.P.No.390 of 2024 on the file of Subordinate Court, Ambattur, is hereby withdrawn and transferred to the file of the Subordinate Court, Tiruchendur for disposal in accordance with law. The learned Subordinate Judge, Ambattur, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.390 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.

20.03.2025

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



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To

- 1.The Sub Court,
Ambattur.
- 2.The Sub Court,
Tiruchendur.
- 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
Tr.C.M.P(MD)No.778 of 2024
and
C.M.P(MD)No.18827 of 2024

20.03.2025