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Tr.C.M.P.No.226 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2026

CORAM

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

Tr.C.M.P.No.226 of 2025

and

CMP No.4296 of 2025

Rajalakshmi

... Petitioner

Vs

P.Saravanan

... Respondent

PRAYER in Tr.C.M.P:

This Transfer Miscellaneous Petition is filed under Section 24 C.P.C., to withdraw O.S.No.320 of 2024 pending before the Sub Judge, Udumalpet and transfer the same to the Subordinate Court, Theni.

PRAYER in C.M.P:

To stay all further proceedings in O.S.No.320 of 2024 pending before the Subordinate Judge, Udumalpet until the disposal of the present transfer petition.

For Petitioner : Mr.T.Jeyaram

For Respondent : Mr.E.Sathiyaraj



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ORDER

Heard the learned counsel for the petitioner. The respondent has opposed the transfer through counter pleadings and citations.

2. The petitioner is the defendant in O.S. No.320 of 2024 on the file of the Subordinate Judge, Udumalpet, instituted by the respondent for recovery of a sum of Rs.9,77,700/- based on a promissory note.

3. The petitioner seeks transfer of the suit to the Subordinate Court, Theni, contending that she is a widow residing at Andipatti Taluk, Theni District; that she is aged about 56 years and suffering from arthritis; she has no independent source of income and that attending the Court at Udumalpet without assistance on every hearing would cause serious hardship and that there is no convenient transport facility from Theni to Udumalpet. It is also not in dispute that the respondent has filed an application seeking security or attachment before judgment in respect of the petitioner's immovable property situated within Theni District.

4. The learned counsel for the respondent. while opposing the transfer, relied upon the orders of this Court in Tr.C.M.P. Nos.1180, 1181 and 1182 of 2025



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dated 31.10.2025 and C.M.A. No.1461 of 2023 dated 03.08.2023 to contend that inconvenience alone is not a ground for transfer and that attachment before judgment can be ordered even in respect of properties outside the territorial jurisdiction.

5. There can be no dispute with the legal proposition that Order XXXVIII Rule 5 CPC does not restrict the power of the Court to attach properties beyond its territorial limits. However, the issue in the present petition is not the jurisdiction of the trial Court to pass interlocutory orders, but whether transfer of the suit is warranted in exercise of powers under Section 24 CPC.

6. As regards the submission that inconvenience alone cannot be a ground for transfer, it is well settled that there is no straitjacket formula in matters under Section 24 CPC. The Court is required to assess comparative hardship, balance of convenience, and the interests of justice on a case-to-case basis.

7. While it is true that in Tr.C.M.P. Nos.1180, 1181 and 1182 of 2025 dated 31.10.2025 the petitioner was aged 85 years and the respondent therein was also a woman, that circumstance by itself cannot eclipse other relevant factors, the



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court declined transfer taking into account the pendency of connected testamentary original petitions and succession proceedings, as also the overall factual matrix of that case. The said decision therefore turned on its own facts and cannot be applied as a precedent laying down any inflexible rule against transfer merely because attachment before judgment is sought. In the present case, the petitioner, has pleaded specific medical ailments, a widow whose husband died on 06.07.2024 and has demonstrated practical difficulty in undertaking repeated travel to Udumalpet. The respondent has not demonstrated any substantial prejudice that would be caused by transfer.

8. On an overall consideration of the balance of convenience and comparative hardship, this Court is satisfied that transfer of the suit to Theni would subserve the ends of justice.

9. Accordingly, Tr.C.M.P. No.226 of 2025 is allowed. O.S. No.320 of 2024 on the file of the Subordinate Judge, Udumalpet, is withdrawn and transferred to the file of the Subordinate Court, Theni. The Subordinate Judge, Udumalpet, shall transmit the entire records to the Subordinate Court, Theni, within three (3) weeks from the date of receipt of this order and the Subordinate



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Court, Theni shall dispose of the matter in accordance with law, as expeditiously as possible, uninfluenced by any observations made in this order. Interim stay granted by this Court on 25.02.2025 shall stand vacated and C.M.P. No.4296 of 2025 is closed. There shall be no order as to costs.

19.01.2026

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1. Sub Judge, Udumalpet
2. Subordinate Court, Theni.



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DR. A.D. MARIA CLETE, J

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