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TR CMP No. 408 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

TR CMP No. 408 of 2026

And

CMP.No. 11947 of 2026

J.K.Nivethitha
W/o.Aravind Kumar,
No.81,2-S-3,CMC College,
Pakayam,
Vellore

Presently residing at
C-32,Desh Apartment,
239,GST Road,Urapakkam,
Chennai-603210.

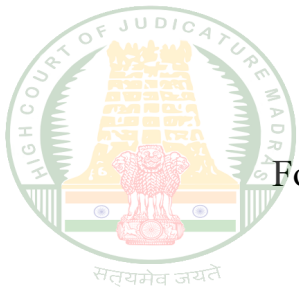
..Petitioner(s)

Vs

K.Aravind Kumar
S/o.kumarappa,
No.45A,Amman Nagar,
Anaiyur,
Madurai-625017.

..Respondent(s)

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure 1908 praying to withdraw the case in F.C.O.P.281 of 2023 pending on the file of the Family Court,Vellore and to transfer the same to the Family Court,Chennai and decide the case in accordance with the law and pass such further or other orders as this Hon'ble Court.



For Petitioner(s): MR.N.Elayaraja

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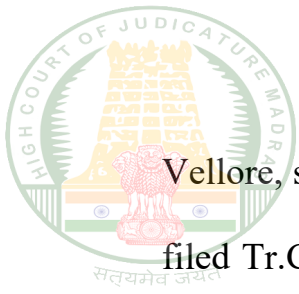
For Respondent(s): LEFT INDIA

ORDER

This petition has been filed seeking to withdraw the case in FCOP.No. 281 of 2022 pending on the file of the Family Court, Vellore, and the same may be transferred to the Family Court, Chennai.

2. Heard the learned Counsel for the petitioner and perused the materials available on record.

3. The learned counsel appearing for the petitioner/wife would submit that the petitioner/wife got married to the respondent/husband on 27.04.2020 at the respondent's parents' house in Madurai during COVID Lockdown, as per Hindu Religious, Rites and Customs. Out of their wedlock, she gave birth a female child who aged about 4 years. Thereafter, there was some misunderstanding between the petitioner and the respondent. The respondent/husband is working in USA since 2024. In such situation, the respondent/husband filed HMOP.No.925 of 2022 before the Family Court, Madurai, seeking for dissolving the marriage was solemnized between them. The petitioner/wife filed FCOP.No.281 of 2022 before the Family Court,



Vellore, seeking for restitution of conjugal rights. Moreover, the petitioner/wife filed Tr.CMP.No.125 of 2023 seeking transfer of the divorce proceedings from the Family Court at Madurai to the Family Court at Vellore to be tried along with FCOP.No.281 of 2022. The divorce petition was transferred and renumbered as FCOP.No. 281 of 2023 on the file of the Family Court, Vellore. Both the above cases are presently pending for adjudication before the Family Court, Vellore. However, the petitioner/wife's native place is at Vellore and now, she is working in SRM Medical College at Chennai, along with her child. Therefore, the petitioner/wife herein would not be able to travel to Vellore, for attending each and every hearing of the case. Therefore, the case in FCOP.No. 281 of 2022 may be withdrawn from the file of the Family Court, Vellore, and transferred to the file of Sub Court, Chengalpattu.

4. I have gone through the affidavit filed in support this petition and I find merit in the submissions made by the learned counsel for the petitioner.

5. At this juncture, it may be apposite to cite the judgment of the Hon'ble Apex Court in **N.C.V.Aishwarya vs. A.S.Saravana Karthik** (**MANU/SC/1211/2022 : 2022 Live Law (SC) 627**) held at paras 9 and 10, which reads as under:-

"9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the



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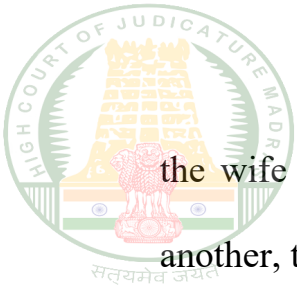
economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer. (emphasis supplied)

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions”.

6. It is also relevant to refer the decision made by the Madurai Bench of Madras High Court in TR.CMP(MD)No.108 of 2010 dated 03.03.2011, wherein, it has observed as below:-

"18. It is true that section 19 of the Hindu Marriage Act, has been amended by insertion of proviso of (iii)(a) to section 19. Of Course, this amended section 19(iii)(a) gives special preference to the wife to file a petition or defending the case of the husband before the Court within whose jurisdiction she resides. The intention of the legislator is to safe-guard the interest and rights of the women, who are being subjected to harassment and cruelty. But this special preference conferred under section 19 (iii)(a) of the Hindu Marriage Act shall not be used to wreck vengeance on the husband. There must be a justifiable cause to select the jurisdiction of the Court where she resides."

7. In the light of the proposition laid down in the judgment of the Hon'ble Supreme Court in *N.C.V.Aishwarya* case cited *supra* and also in the light of the observation made by this Court, wherein, it has been held that convenience of



the wife has to be considered, while transferring the case from one Court to another, there can be no impediment for allowing this petition as prayed for.

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8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The case in FCOP.No. 281 of 2022 is hereby withdrawn from the file of the Family Court, Vellore, and transferred to the file of the Sub Court, Chengalpattu. The respondent/husband shall appear before the Court below for trial and also through Video Conferencing Mode as and when required. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.06.2026

MSM
To

- 1.The Family Court, Vellore
- 2.The Family Court, Chengalpattu.



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T.V.THAMILSELVI, J.

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