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TR CMP No. 1200 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

TR CMP No. 1200 of 2025

AND

CMP NO. 27143 OF 2025

1. Vanaraj
S/o. Badanan, Padiyakarar Compound, PAP
Nagar, 2nd Street, Serangadu, Kadugukarar
Thottam, Tiruppur South, Tiruppur.
2. Murugeswari
W/o. Vanaraj, Padiyakarar Compound, PAP
Nagar, 2nd Street, Serangadu, Kadugukarar
Thottam, Tiruppur South, Tiruppur.

..Petitioner(s)

Vs

1. Rani
W/o. Manivel, No.342, Devaram Main Road,
Rasingapuram Village, Bodinayakanur Taluk,
Theni District.
2. V. Manivel
S/o. Vellaiappan, No.342, Devaram Main Road,
Rasingapuram Village, Bodinayakanur Taluk,
Theni District.

..Respondent(s)

CMP No. 27143 of 2025

1. Vanaraj
S/o. Badanan, Padiyakarar Compound, PAP
Nagar, 2nd Street, Serangadu, Kadugukarar
Thottam, Tiruppur South, Tiruppur.
2. Murugeswari
W/o. Vanaraj, Padiyakarar Compound, PAP
Nagar, 2nd Street, Serangadu, Kadugukarar
Thottam, Tiruppur South, Tiruppur.

..Appellant(s)



Vs

1. Rani

W/o. Manivel, No.342, Devaram Main Road,
Rasingapuram Village, Bodinayakanur Taluk,
Theni District.

2. V. Manivel

S/o. Vellaiappan, No.342, Devaram Main Road,
Rasingapuram Village, Bodinayakanur Taluk,
Theni District.

..Respondent(s)

TR CMP No. 1200 of 2025

To withdraw the GWOP No.225/2025 on the file of the Family Court, Theni and to transfer the same to Family Court at Tiruppur and pass such further or other orders as this Honble Court.

CMP No. 27143 of 2025

To Stay all the proceedings in GWOP No.225/2025 on the file of the Family Court, Theni till the pending disposal of the above TR CMP.

TR CMP No. 1200 of 2025

For Petitioner(s): Mr.I.M.Siddartha Ramarajan

For Respondent(s): No appearance

Order

Heard.

2. This Transfer Civil Miscellaneous Petition is filed seeking transfer of the G.W.O.P. pending on the file of the Family Court, Theni, to the competent Court at Tiruppur. The petitioners are the `maternal grandparents of the minor. It is submitted that both the parents of the



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minor are no more, and that the minor has been in the care and custody of the maternal grandparents at Tiruppur. It is further submitted that the paternal grandparents have instituted the G.W.O.P. at Theni.

3. The situation narrated is undoubtedly unfortunate. The Court is conscious that the lis concerns the welfare of a child, and that all stakeholders are grieving. Nevertheless, the transfer jurisdiction under Section 24 CPC is not to be exercised in a manner that pre-empts statutory requirements or sanctifies an assumed jurisdiction without the issue being tested in the manner known to law.
4. Under Section 9(1) of the Guardians and Wards Act, 1890, an application with respect to the guardianship of the person of a minor shall be made to the Court having jurisdiction in the place where the minor “ordinarily resides”. The expression “ordinarily resides” is a jurisdictional fact which may, depending on the pleadings and materials, require adjudication.
5. In the case on hand, the petitioners assert that the minor has been residing at Tiruppur with them. If that be so, the petitioners have an efficacious remedy to raise a jurisdictional objection before the Court where the G.W.O.P. is presently pending, seeking return of the petition for



presentation before the proper Court, or such other orders as are permissible in law. The trial Court is the proper forum to first examine the plea of “ordinary residence” on the parties’ pleadings and material, and to pass appropriate orders.

6. This Court is not inclined, in exercise of transfer jurisdiction, to withdraw the proceedings and direct transfer solely on the basis of a contested jurisdictional assertion. Doing so would amount to this Court effectively determining the foundational jurisdictional fact without the benefit of a full contest at the first instance, which is neither necessary nor appropriate in a transfer petition.
7. However, considering the circumstances of the case and the welfare dimension involved, it is observed that, if the petitioners move the Family Court, Theni with an application raising the objection under Section 9(1) of the Guardians and Wards Act, the said Court shall consider the same expeditiously, on its own merits, after hearing all parties, and without being influenced by any observation made herein.



8. In the result, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Connected miscellaneous petition(s), if any, are closed.

WEB COPY

27-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MFA



To

1. Family Court, Theni
2. Family Court at Tiruppur



WEB COPY

TR CMP No. 1200 of 2



DR.A.D.MARIA CLETE J.

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