



Tr.C.M.P.(MD)No.98 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.98 of 2026
and
C.M.P.(MD)No.1834 of 2026

Subiksha.G

... Petitioner/
Respondent

Vs.

S.Gajendran

... Respondent/
Petitioner

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw O.P.No.613 of 2025 on the file of Family Court, Theni and transfer the same to the file of Sub Court, Melur.

For Petitioner : Mr.S.Guruprasath

For Respondent : Mr.J.Vishnu

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the



Tr.C.M.P.(MD)No.98 of 2026

case from the file of the Family Court, Theni, in O.P.No.613 of 2025 and transfer the same to the file of the Subordinate Court, Melur.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. It is not in dispute that the marriage between the petitioner and the respondent was solemnized on 23.03.2023 as per the Hindu Rites and Customs and that subsequently there arose some misunderstanding and they are living separately. It is also not in dispute that the petitioner has initiated proceedings under the Domestic Violence Act and the same is pending in D.V.C.No.30 of 2025 on the file of the Judicial Magistrate Court, Melur and that subsequently the respondent filed a petition in O.P.No.613 of 2025 seeking restitution of conjugal rights and the same is pending on the file of the Family Court, Theni.

4. The learned counsel appearing for the petitioner would submit that the petitioner is residing at Melur Taluk, Madurai District and finds it difficult to travel to Theni to attend the hearings and that the respondent



Tr.C.M.P.(MD)No.98 of 2026

WEB COPY

has purposely filed the present petition in O.P.No.613 of 2025 while DVC proceedings are pending.

5. The learned counsel appearing for the respondent would submit that they are not having any objections to transfer the case but would submit that the respondent's presence may be dispensed with before the trial Court.

6. In the case of ***N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha*** reported in ***2022 Live Law (SC) 627***, the Hon'ble Supreme Court has reiterated the position with generally, it is the wife's convenience, which must be looked at while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :

“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 economic soundness of both the parties, the social strata of the



Tr.C.M.P.(MD)No.98 of 2026

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 socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.", the bench observed."

7. Considering the above facts and circumstances and also taking note of the submissions made on either side, this Court is of the view that the case in O.P.No.613 of 2025 is ordered to be withdrawn from the file of the Family Court, Theni, and transfer the same to the file of the Subordinate Court, Melur. Accordingly, the learned Judge, Family Court, Theni, is hereby directed to transmit the entire records in O.P.No.613 of 2025 to the file of the Subordinate Court, Melur, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Subordinate Judge, Melur, is directed to take up the petition on file and proceed in accordance with law.

8. With the above direction, the Transfer Civil Miscellaneous



Tr.C.M.P.(MD)No.98 of 2026

Petition is allowed. The respondent is at liberty to approach the Subordinate Court, Melur, requesting for dispensing with his personal appearance and on such requisition, the learned Subordinate Judge is directed to consider the same in accordance with law. Consequently, connected Miscellaneous Petition is closed. No costs.

17.03.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Judge,
Family Court,
Theni
2. The Subordinate Judge,
Melur,
Madurai District.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P.(MD)No.98 of 2026

K.MURALI SHANKAR,J.

csn

Order made in
Tr.C.M.P.(MD)No.98 of 2026
and
C.M.P.(MD)No.1834 of 2026

Dated : 17.03.2026