



Tr.C.M.P(MD).No.303 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.04.2026

Delivered on : 05.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.303 of 2025
and
C.M.P(MD)No.7399 of 2025

Brainthi

: Petitioner

Vs

Nishanth

: Respondent

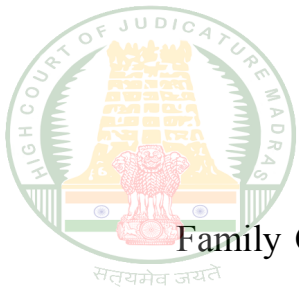
Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., praying to withdraw the petition in H.M.O.P.No.304 of 2020 pending on the file of Family Court, Cuddalore and transfer the same to the file of the Sub Court, Palani.

For Petitioner : Mr.Janakiramulu

For Respondent : Mr.G.Murugendran

ORDER

The Civil Miscellaneous Petition has been filed seeking orders to withdraw the petition in H.M.O.P.No.304 of 2020 pending on the file of



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Family Court, Cuddalore and transfer the same to the file of the Sub Court, Palani.

2. It is not in dispute that the marriage between the parties was solemnized on 10.02.2019 as per Hindu rites and customs and due to their wed-lock they were blessed with a female child namely Nithna on 27.10.2016 and that subsequently, there arose some misunderstanding between them and they are living separately.

3. It is also not in dispute that the respondent filed a petition in H.M.O.P.No.304 of 2020, seeking divorce and the same is pending on the file of the Family Court, Cuddalore. It is also not in dispute that the petitioner initiated the proceedings under the Domestic Violence Act in D.V.O.P.No.23 of 2022 and obtained interim orders, directing the respondent to pay maintenance to the petitioner and challenging the same, the respondent filed an appeal in C.A.No.47 of 025 and the same is pending on the file of the Additional District Court, Palani. The petitioner has also filed a petition in G.W.O.P.No.94 of 2022, seeking custody of their minor daughter and the same is pending on the file of the Additional District Court, Palani.



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4. The learned counsel for the petitioner would submit that the petitioner is residing at Palani and finds it difficult to travel to Cuddalore to attend the hearings; that the petitioner has to travel 500 kms for attending every hearing at Cuddalore; that the petitioner is in need of assistant of male member of her family to accompany her during her travel and she is spending more to attend the hearings and that therefore, she was constrained to file the above transfer petition.

5. The respondent filed a counter affidavit raising objections. The learned counsel for the respondent would submit that the divorce petition in H.M.O.P.No.304 of 2020, was already disposed of on 12.02.2021 by way of an ex-parte order; that though the petitioner appears to have taken steps to set aside the ex-parte order, the H.M.O.P., has not been restored and till now, the case is under the caption 'disposed' and that therefore, in the absence of pending lis, the question of transferring the same does not arise at all and that therefore, the transfer petition being misconceived is liable to be dismissed as not maintainable.



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WEB COPY 6. It is admitted by both the parties that in the divorce petition in H.M.O.P.No.304 of 2020, an ex-parte decree came to be passed on 12.02.2021 and at the instance of the petitioner, ex-pate decree was set aside on 16.03.2024. It is not in dispute that the respondent preferred a revision in C.R.P.(PD)No.2243 of 2024, challenging the order, dated 16.03.2024 and this Court dismissed the revision vide order, dated 07.04.2025 and that the respondent has then preferred a Special Leave Petition before the Hon'ble Supreme Court and the same was also dismissed.

7. It is pertinent to note that when the matter was taken up on 15.04.2026, the learned counsel for the respondent submitted that the respondent filed SLP before the Hon'ble Supreme Court and sought time for getting instructions with regard to the pendency of SLP and that in the subsequent hearings, the learned counsel for the respondent submitted that the SLP was disposed of. The contention of the respondent is that the main H.M.O.P.No.304 of 2020 was not restored to file and as such, no lis is pending.



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WEB COPY 8. It is evident from the admitted facts that ex-parte decree passed in H.M.O.P.No.304 of 2020 has been set aside by the trial Court itself and the same came to be confirmed by the High Court in Civil Revision and subsequently by the Hon'ble Supreme Court in SLP.

9. As rightly contended by the learned counsel for the petitioner, just because the case is shown under the caption 'disposed', it cannot be stated that no lis is pending. If it is not restored, it is the fault of the trial Court and not that of the petitioner.

10. Considering the above, it is very much clear that the divorce petition in H.M.O.P.No.304 of 2020 is pending as of now and that the objection in this regard cannot be sustained.

11. The learned counsel for the respondent would then contend that in view of the widespread adoption and continued availability of video conferencing (VC) facilities across Courts, the ground of distance or inconvenience, by itself, no longer constitutes a valid or sufficient basis for seeking transfer of proceedings and that the petitioner can effectively



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participate in the hearings from her place of residence via virtual mode, without the need to travel in person on each hearing date.

12. No doubt, with the advancement of technology and the introduction of video conferencing facilities, the hardship involved in making a physical appearance before the Court has been considerably reduced. But, the same cannot be put against a party, particularly, a wife to non-suit her request for travel, when she is able to show genuine difficulty in attending the proceedings at a distance place.

13. It is necessary to refer the decision of Hon'ble Supreme Court in the case of ***N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha*** reported in **2022 Live Law (SC) 627**, wherein 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



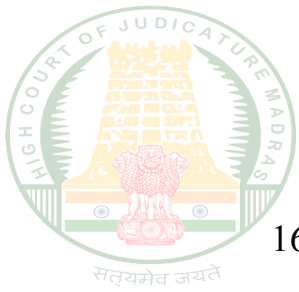
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economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and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

14. The Hon'ble Supreme Court has consistently held that, in matrimonial disputes, the convenience of wife should be given paramount consideration, especially when she is residing separately and is required to travel a long distance to attend the Court proceedings. The mere availability of virtual hearings cannot be a substitute for participation at all stages of a trial, particularly when the physical presence of the parties may be required for evidence, mediation, or effective conduct of the cases.

15. Considering the above, this Court is of the view that the availability of video conferencing facilities is only an enabling factor and cannot, by itself, constitute a determinative ground to reject a transfer petition filed by the wife on the ground of inconvenience or distance and as such, the said contention is liable to be rejected.



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16. The learned counsel for the respondent would then contend that the mere fact that the petitioner is a women/wife cannot, by itself, constitute a valid or sufficient ground for seeking transfer of proceedings. He placed reliance on the decision of the Hon'ble Supreme Court in **Anindita Das Vs. Srijit Das** reported in (2006) 9 SCC 197, wherein it was held as follows :

3.Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency shown by this Court. On an average at least 10 to 15 transfer petitions are on board of each court on each admission day. It is, therefore, clear that leniency of this Court is being misused by the women.

4.Except for stating that her health is not good, no particulars are given. On the ground that she is not able to come to Delhi to attend the court on a particular date, she can always apply for exemption and her application will undoubtedly be considered on its merit. Hence, no ground for transfer has been made out.

17. In the present case, as already pointed out, the proceedings under the Domestic Violence Act in D.V.O.P.No.23 of 2022, is pending before the Court of Judicial Magistrate, Palani. Moreover, the petitioner's application



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seeking custody of her minor daughter in G.W.O.P.No.94 of 2022, is also pending on the file of the Additional District Court, Palani.

18. No doubt, the learned counsel for the respondent would submit that the respondent has filed Civil Revision Petition, challenging the guardianship proceedings and has obtained an order of stay. It is pertinent to note that the petitioner is residing at Palani and as rightly contended by the learned counsel for the petitioner, she has to travel nearly 250 kms to reach Cuddalore for attending the Court hearings.

19. Considering the entire facts and circumstances of the case and also the fact that the petitioner is residing at Palani and that the connected proceedings are pending before the Courts at Palani, this Court is inclined to allow this petition. Accordingly, the petition in H.M.O.P.No.304 of 2020, is ordered to be withdrawn from the file of the Family Court, Cuddalore and transfer the same to the Principal Subordinate Court, Palani. The learned Judge, Family Court, Cuddalore, is hereby directed to transmit the entire records in H.M.O.P.No.304 of 2020 to the file of the Principal Subordinate Court, Palani, 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 Principal Subordinate



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Judge, Palani, is directed to take up the petition on file and proceed in accordance with law.

20. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

05.06.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das

To

- 1.The Family Court, Cuddalore.
- 2.The Principal Subordinate Court, Palani.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
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and
C.M.P(MD)No.7399 of 2025

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