



Tr.C.M.P(MD).No.447 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.03.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.447 of 2025
and
C.M.P(MD)No.12324 of 2025

G.Divya : Petitioner

Vs.

Nachiappan @ Vijay : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in H.M.O.P.No.86 of 2024 pending on the file of the Sub Court, Devakottai and transfer the same to the Family Court, Sivagangai or any other competent Court in Sivagangai District.

For Petitioner : Mr.S.Ramesh Kumar,

For Respondent : No Appearance.

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the case in H.M.O.P.No.86 of 2024 pending on the file of the Sub Court, Devakottai and transfer the same to the Family Court, Sivagangai or any other competent Court in Sivagangai District.



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2. It is evident from the records that the marriage between the parties was solemnized on 20.08.2023 as per Hindu Rites and customs and that subsequently, there arose some misunderstanding between them and they are living separately.

3.The learned counsel appearing for the petitioner would submit that the respondent has filed a petition in H.M.O.P.No.86 of 2024, before the Sub Court, Devakottai, seeking restitution of conjugal rights and that the petitioner has filed a petition in H.M.O.P.No.32 of 2025, seeking divorce and the same is pending on the file of the Family Court, Sivagangai.

4.The learned counsel for the petitioner would submit that the petitioner is residing at Sivagangai and finds it very difficult to travel to Devakottai to attend the Court hearings; that her divorce petition is pending before the Sub Court, Sivagangai and that therefore, the petition for restitution of conjugal rights in H.M.O.P.No.86 of 2024 may be transferred to the Family Court, Sivagangai.

5.Despite receipt of Court notice, the respondent has not turned up.

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



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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 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.As already pointed out, despite receipt of Court notice, the respondent has not turned up.

8.Considering the facts and circumstances of the case and taking note of the fact that the divorce petition in H.M.O.P.No.32 of 2025 filed by the petitioner is pending on the file of the Family Court, Sivagangai, this Court is inclined to allow this petition. Accordingly, the petition in H.M.O.P.No.86 of



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2024, is ordered to be withdrawn from the file of the Sub Court, Devakottai and transfer the same to the file of the Family Court, Sivagangai. The learned Subordinate Judge, Devakottai, is hereby directed to transmit the entire records in H.M.O.P.No.86 of 2024 to the file of the Family Court, Sivagangai, within a period of 10 days from the date of receipt of copy of this order and on receiving the case bundle, the learned Judge, Family Court, Sivagangai, is directed to take up the petition on file and proceed in accordance with law.

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

05.03.2026

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



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- To
- 1.The Sub Court, Devakottai.
 - 2.The Family Court, Sivagangai.
 - 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

DAS

Order made in
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