



TR CMP(MD). No.619 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.01.2026

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

TR CMP(MD). No.619 of 2024

and

CMP(MD)Nos.14881 and 14873 of 2024

S.Vijaya Preetha

... Petitioner

Vs.

P.V.Vijay Ganesh

... Respondent

PRAYER :- Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the HMOP NO.3658 of 2021 on the file of the Learned Family Court, Chennai and transfer the same to the Family Court, Madurai and try along with the HMOP No.957 of 2021 filed by the Petitioner and pass such further or other orders as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : No Appearance



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ORDER

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This transfer petition is at the instance of wife. She seeks withdrawal of H.M.O.P.NO.3658 of 2021 from the file of Family Court, Chennai and transfer the same to Family Court, Madurai and try along with the HMOP No.957 of 2021 filed by the Petitioner.

2. Today, when the matter came up for hearing, learned counsel for petitioner would submit that despite having been afforded opportunities on several occasions, respondent has not been cooperating with the Transfer Civil Miscellaneous Petition.

3. Earlier, when the matter came up for hearing on 24.10.2024, this Court ordered notice to respondent and adjourned the matter to 25.11.2024. On 25.11.2024, petitioner was directed to take private notice on the respondent and the matter was adjourned to 10.12.2024. Thereafter, on 10.12.2024, Mr.M.Kalidas, learned counsel for respondent, undertook to file a Vakalat on behalf of respondent and sought time. Hence, the matter was adjourned to 19.12.2024 and on



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19.12.2024, respondent entered appearance in person and sought time to file a counter. The matter was subsequently adjourned to 07.01.2025.

Thereafter, on several occasions, the matter was adjourned to the following dates viz., 28.01.2025, 06.03.2025, 08.04.2025, 09.10.2025, 03.12.2025, 18.12.2025 and 20.01.2026, however, respondent remained unrepresented. Today (20.01.2026) also, there is no representation on behalf of respondent.

4. The marriage between Petitioner and Respondent was solemnized on 13.11.2014, according to Hindu rites and customs. Out of wedlock, a female child was born and she is now 10 years old. Due to differences, parties have separated. Petitioner/wife initiated proceedings in Crime No.1 of 2018 before AWPS, Tallakulam, Madurai and the same was withdrawn. Thereafter, petitioner/wife filed H.M.O.P.No.957 of 2021, for divorce along with M.C.No.75 of 2021 before Family Court, Madurai and the same is pending. During the pendency of the proceedings, respondent/husband filed a counter stating that he filed H.M.O.P.No.3658 of 2021 for restitution of conjugal rights before Family Court, Chennai and an ex-parte order was also passed in his



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favour. Thereafter, petitioner/wife filed I.A.No.1 of 2023 to set aside ex-parte order in H.M.O.P.No.3658 of 2021 and the same is pending. Pleading that wife is residing in Madurai and unable to travel from Madurai to Chennai, she has moved this transfer petition.

5. Learned Counsel for Petitioner would submit that Petitioner has to be accompanied by her mother, who suffer from age related ailments. She is unemployed and does not have financial strength to even bear the travel expenditure. She also expressed difficulty inasmuch as she may have to travel a distance of 950 Kms (to and fro) from Madurai. She would therefore request this Court to transfer the case from the Family Court, Chennai to Family Court, Madurai.

6. It is relevant to note that Parliament, while amending the Hindu Marriage Act, has incorporated Section 19(iii), permitting a wife to initiate a proceeding in a place where she is residing. This is an indication that convenience of the wife has to be given precedence by the Court. In line with this Parliamentary amendment, this Court and the Supreme Court have consistently held in matters of transfer, convenience of wife should be given a superior consideration than that of husband. As



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the distance between Madurai and Chennai is considerable and since it will be difficult for the wife to leave the child behind and travel to attend the Court, I am inclined to allow the petition seeking transfer as prayed for.

7. In view thereof, H.M.O.P.No.3658 of 2021 pending on the file of Family Court, Chennai, is hereby ordered to be withdrawn and transferred to the file of Family Court, Madurai. The Family Court, Madurai shall try the said case along with H.M.O.P.No.957 of 2021 and dispose of the aforementioned cases expeditiously, preferably within a period of six months.

8. Family Court may not insist upon the physical presence of husband on all hearing dates and permit to appear through Video Conferencing. For non-essential and procedural hearings, he may be permitted to be represented through a counsel. He shall, however, present himself before the Court, when Trial Court passes a specific order for his appearance or when his presence is indispensable.



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WEB COPY 9. With the above observations, the Transfer Petition is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

20.01.2026

Index :Yes/No
Web :Yes/No
Speaking/Non Speaking
rgm



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To

1. The Family Court, Chennai
2. The Family Court, Madurai



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MOHAMMED SHAFFIQ,J.

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