



TR CMP(MD). No.698 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06/01/2026

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

**TR CMP(MD). No.698 of 2023
and CMP(MD)No.15563 of 2023**

C.Gayathri, ... Petitioner

Vs.

S.Prabakaran, ... Respondent

PRAYER :- Transfer Civil Miscellaneous Appeal filed under Section 24 of Civil Procedure Code to Withdraw and Transfer the case in H.M.O.P.No.448 of 2023 on the file of the Family Court, Madurai and to Transfer the same to the file of the Sub Court, Palani.

For Petitioner : Mr.Maheswaran R,

For Respondent : Mr.S.Vellaichamy,

ORDER

This Transfer Civil Miscellaneous Petition is at the instance of wife. She seeks withdrawal of H.M.O.P.No.448 of 2023 from the file of Family Court, Madurai and transfer the same to the file of Sub Court, Palani.

2.Heard Mr.R.Maheswaran, learned counsel for petitioner and Mr.S.Vellaichamy, learned counsel for respondent.



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3. Petitioner married the respondent on 15.02.2021, according to Hindu rites and customs. Due to differences, parties have separated. Respondent/husband initiated proceedings in H.M.O.P.No.448 of 2023 for divorce before Family Court, Madurai. Pleading that wife is residing in Palani and unable to travel from Palani to Madurai, she has moved this transfer petition.

4. Mr.S.Vellaichamy, learned counsel for respondent filed a counter affidavit and on instructions from respondent submitted that respondent has no objection to transfer H.M.O.P.No.448 of 2023, on the file of Family Court, Madurai to the file of Sub Court, Palani. He only requests that the above petition may be disposed of as expeditiously as possible.

5. 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



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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 the distance between Palani and Madurai is considerable and since it will be difficult for the wife to leave aged parents behind and travel to attend the Court, I am inclined to accept the transfer.

6.In view thereof, HMOP No.448 of 2023 pending on the file of Family Court, Madurai, is hereby ordered to be withdrawn and transferred to the file of Sub Court, Palani. Learned Subordinate Judge, Palani, is directed to dispose of the aforementioned case as expeditiously as possible.

7.With the above observations, the Transfer Petition is allowed. There is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

06.01.2026

Index :Yes/No
Web :Yes/No
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TO

1. The Family Court,
Madurai
2. The Sub Court,
Palani



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MOHAMMED SHAFFIQ,J

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