

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Rev.Appln.No.117 of 2014

in

Tr.C.M.P.No.784 of 2013

G.Senthilkumar

..Petitioner

/vs/

Indira

..Respondent

Prayer: Review Petition is filed under Order 47 Rule 1 r/w. Section 24 of Civil Procedure Code to review the order of this Court in Tr.C.M.P.No.784 of 2013 dated 16.06.2014 allowing the Tr.C.M.P.No.784 of 2013 transferring H.M.O.P.No.209 of 2012 on the file of the Sub Court, Vellore to Sub Court, Chidambaram.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : No appearance

ORDER

This review application has been filed against the order of this Court in Tr.C.M.P.No.784 of 2013 dated 16.06.2014 allowing the same by transferring H.M.O.P.No.209 of 2012 on the file of the Sub Court, Vellore to the file of the Sub Court, Chidambaram.

2.The review petitioner/respondent in Tr.C.M.P.No.784 of 2013 has filed a petition in H.M.O.P.No.209 of 2012 for divorce on the file of the Sub Court, Vellore. The respondent/petitioner in Tr.C.M.P.No.784 of 2013 has filed a petition in H.M.O.P.No.19 of 2013 for restitution of conjugal rights on the file of the Sub Court, Chidambaram. But this Court by order dated 16.06.2014 has ordered to withdraw the case in H.M.O.P.No.209 of 2012 pending on the file of the Sub Court, Vellore and ordered to transfer the same to the Sub Court, Chidambaram for joint trial along with H.M.O.P.No.19 of 2013 where the respondent/wife resides. Against which, the present review application has been filed.

3.Mr.Sankara Subbu, the learned counsel for the review petitioner submitted that this Court has passed an order in Tr.C.M.P.No.784 of 2013 on 16.06.2014 even though he has filed a vakalat on behalf of the review petitioner/respondent in Tr.C.M.P.No.784 of 2013, his name has not been printed and no opportunity has been given. He further submitted that the review petitioner/husband/respondent in Tr.C.M.P.No.784 of 2013 is working as Secondary Grade Teacher at Vellore and while he was going to Chidambaram to attend the Court on each and every hearing, he is facing some life threat. He would also submitted that the petitioner herein undertakes to pay the expenses incurred by the respondent whenever the respondent/wife attend

the Court at Vellore. Hence, he prayed for setting aside the order passed in the Transfer Civil Miscellaneous Petition by allowing the review application.

4. Even though the respondent was served, no one represented the respondent.

5. Considered the argument advanced by the learned counsel for the review petitioner and perused the typed set of papers.

6. The petitioner/respondent in Tr.C.M.P.No.784 of 2013 has filed a petition in H.M.O.P.No.209 of 2012 for divorce on the file of the Sub Court, Vellore. The respondent/petitioner in Tr.C.M.P.No.784 of 2013 has filed a petition in H.M.O.P.No.19 of 2013 for restitution of conjugal rights on the file of the Sub Court, Chidambaram. This Court by order dated 16.06.2014 has ordered to withdraw the petition in H.M.O.P.No.209 of 2012 pending on the file of the Sub Court, Vellore and transfer the same to the file of the Sub Court, Chidambaram for joint trial along with H.M.O.P.No.19 of 2013. But it is pertinent to note that the respondent/wife is residing within the jurisdiction of the Sub Court, Chidambaram. As per the Amended Section 19(iii)(a) of the Hindu Marriage Act, "In case the wife is the petitioner, where she is residing on the date of presentation of petition". Therefore, even though the cause of

action arose at some other place, to facilitate the wife, the wife is entitled to file a matrimonial petition wherever she resides. Further, the respondent/wife is an unemployed and the petitioner is working as Second Grade Teacher. It is true that the petitioner/husband finds it difficult to attend the court, but the legislature has passed an amendment for facilitating the women to get along with the case where the respondent/wife resides. In such circumstances, mere paying the day allowance and travel allowance is not sufficient. It is also pertinent to note that there is no document to show that the petitioner/husband had life threat while he was attending the Court at Sub Court, Chidambaram. In such circumstances, the argument advanced by the learned counsel for the petitioner does not merit acceptance. Hence, the order passed by this Court in Tr.C.M.P.No.784 of 2013 ordering to withdraw the petition in H.M.O.P.No.209 of 2012 from the file of the Sub Court, Vellore and transferring the same to the Sub Court, Chidambaram for joint trial along with H.M.O.P.No.19 of 2013 is sustainable. Therefore, the review application is hereby dismissed.

7.In the result, the review application is dismissed. No costs.

21.12.2015

Index:Yes/No
Internet:Yes/No
cse

R.MALA, J.

cse

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