

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Tr.C.M.P.NOs.249 & 250 of 2014
and
M.P.Nos. 1 & 1 of 2014

Saravanakumar Chowdry ... Petitioner
(in both petitions)

Vs.

Subha ... Respondent
(in both petitions)

Prayer in Tr.C.M.P.No.249 of 2014: Transfer Civil Miscellaneous Petition filed under Section 24(1)9B(ii) of the Civil Procedure Code, to withdraw the H.M.O.P.No.297 of 2010 pending on the file of Principal Family Court at Chennai and re transfer the same to Sub Court, Mannargudi or any other Court.

Prayer in Tr.C.M.P.No.250 of 2014: Transfer Civil Miscellaneous Petition filed under Section 24(1)9B(ii) of the Civil Procedure Code, to withdraw the H.M.O.P.No.3759 of 2011 pending on the file of Principal Family Court at Chennai and transfer the same to Sub Court, Mannargudi or any other Court.

For Petitioner in both case: Mr.R.Chandrasudan

For Respondent in both case: Mr.E.Venkatesan

COMMON JUDGMENT

The husband has come before this Court to transfer the H.M.O.P.No.297 of 2010, filed by the petitioner/husband, for dissolution of marriage and H.M.O.P.No.3759 of 2011, filed by the respondent/wife, for restitution of conjugal rights, from Principal Family Court, Chennai to Sub Court, Mannargudi. Since the respondent has not cooperated for disposal of the matter, even though there is a direction by this Court.

2. Heard both side and perused the records.

3. Right from 2008, there are a number of proceedings between the petitioner and respondent. Though the petitioner filed H.M.O.P. No.70 of 2008 for dissolution of marriage, the same got transferred to the Principal Family Court, Chennai at the instance of the respondent. By getting order from this Court, the same has been renumbered as H.M.O.P.No.297 of 2010. Similarly, the respondent filed H.M.O.P. No.3759 of 2011, on the file of Principal Family Court, Chennai, for restitution of conjugal rights and the same is also pending and the said case has been posted for cross examination of the petitioner herein (husband). Another case under Domestic Violence Act has been filed by the respondent(wife) in C.C.No.74 of 2012 on the file of XI Metropolitan Magistrate, Saidapet, Chennai and the same is also pending. As far as, H.M.O.P.No.297 of 2010 is concerned, the evidence of P.W.1 was already over and the respondent herein(wife) filed a petition to reopen and recall P.W.1(husband) to mark additional documents. The said petition is also pending.

4. Taking into consideration the fact that the matter has been pending right from 2008 and earlier there is a direction by this Court to dispose of the matter within six months, it is appropriate to allow the applications filed by the respondent wife before the Family Court, Chennai, namely, recall and reopen the evidence of P.W.1(husband) and to mark the additional documents. The learned counsel for the petitioner(husband) has no objection for allowing the said petitions and therefore those applications are allowed by this Court. The petitioner(husband) is directed to appear before the trial Court on 18.04.2015 as witness and respondent(wife) is directed to cross examine P.W.1 and mark the documents subject to any objection by other side with regard to those documents regarding the admissibility and relevancy. After cross examination, the trial Court, namely, the Principal Judge, Family Court, Chennai is directed to dispose the matter in H.M.O.P.No.297 of 2010 on or before 30.04.2015.

5. As far as H.M.O.P.No.3759 of 2011 is concerned, the respondent(wife) has already examined the petitioner(husband) and the petitioner is in the box and he has to be cross examined by the wife. Therefore, the husband is also directed to appear before the trial Court for cross examination by the respondent (wife) on that day. The Principal Judge, Family Court, Chennai is also directed to dispose the said H.M.O.P.No.3759 of 2011 on or before 30.04.2015.

6. The petitioner(husband) is directed to pay a sum of Rs.1,50,000/- to the respondent(wife) on or before 18.04.2015.

7. In view of the above directions, these transfer civil miscellaneous petitions are dismissed. No costs. Consequently, connected M.Ps. are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

rrg

To

1. The Principal Judge,
Family Court,
Chennai.

2. The Subordinate Judge
Subordinate Court
Mannargudi

1 cc to Mr.R. Chandrasundan, Advocate, Sr. 19638

2 ccs to Mr.E. Venkatesan, Advocate, Sr. 19493

Tr.C.M.P.NOs.249 & 250 of 2014

EV (CO)
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