

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Tr.C.M.P. No.835 of 2014

and Tr.CMP.No.49 of 2015

and MP.Nos.1 of 2014 and 1 of 2015

TR.CMP.No.835 of 2014

P.Senthil Murugan

... Petitioner/1st Respondent

Vs.

1.C.Nanthini

...1st Respondent/Petitioner

2.N.Periya Nayagam

3.Rani Periya Nayagam

... Respondents 2 and 3/
Respondents 2 & 3

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw DVOP.No.78 of 2014 pending on the file of the Additional Mahila Magistrate Court, Salem and transfer the same to the file of the Subordinate Court, Kallakurichi or any other Court in Cuddalore District.

For Petitioner : Mr.D.Nellaiappan

For 1st Respondent : Mr.R.Nalliyappan

TR.CMP.No.49 of 2015

C.Nanthini

... Petitioner/Respondent

Vs.

P.Senthil Murugan

... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No23 of 2013 pending on the file of the Principal Sub-Court, Cuddalore and transfer the same to the Family Court, Salem and try along with F.C.O.P.No.13 of 2013.

For Petitioner : Mr.R.Nalliyappan
For Respondent : Mr.D.Nellaiappan

C O M M O N O R D E R

The husband, who is the respondent in D.V.O.P.No.78 of 2014, has come forward with the petition in Tr.C.M.P.No.835 of 2014 to transfer the same from the file of the Additional Mahila Magistrate Court, Salem, to the file of the Sub-Court, Kallakurichi or any other Court in Cuddalore District.

2.The wife, who is the respondent in H.M.O.P.No.23 of 2013, has come forward with the petition in Tr.C.M.P.No.49 of 2015 to transfer the same from the file of the Principal Sub-Court, Cuddalore, to the file of the Family Court, Salem and to try along with F.C.O.P.No.13 of 2013.

3.Heard the learned counsel for the petitioner as well as learned counsel for the respondents.

4.For the sake of convenience, the petitioner and the respondents 1 to 3 in Tr.C.M.P.No.835 of 2014 are referred to as husband and wife and his parents.

5.The wife has filed a petition in F.C.O.P.No.13 of 2013 for divorce before the Family Court, Salem. Thereafter, the husband has filed a petition in H.M.O.P.No.23 of 2013 before the Principal Sub-Court, Cuddalore for restitution of conjugal rights. The wife has also filed a petition in D.V.O.P.No.78 of 2014 under Sections 12 read with 18, 20 and 22 of Protection of Women from Domestic Violence Act, which was pending before the Additional Mahila Magistrate Court, Salem.

6.Now the grievance of the husband is that D.V.O.P.No.78 of 2014 has filed against himself as well as his parents, who are cited as respondents 2 and 3. As they are aged persons, it is difficult for them to travel from Cuddalore to Salem to attend the Court. Hence, he sought for transfer of D.V.O.P.No.78 of 2014 to the Sub-Court, Kallakurichi or any other Court at Cuddalore District.

7.During the argument, both sides counsel fairly conceded that the cases may be transferred to the Family Court, Salem and tried jointly along with F.C.O.P.No.13 of 2013.

8. In view of the above submissions, the petition in H.M.O.P.No.23 of 2013 pending on the file of the Principal Sub-Court, Cuddalore and also the petition in D.V.O.P.No.78 of 2014 pending on the file of the Additional Mahila Magistrate Court, Salem are ordered to be withdrawn and transferred to the file of the Family Court, Salem and tried along with F.C.O.P.No.13 of 2013, which is pending on its file. Since the parents of the husband are aged persons, they are directed to file a petition for dispense with their personal appearance and the Presiding Officer, Family Court, Salem is directed to consider the same. The Presiding Officer, Principal Sub-Court, Cuddalore, is directed to transmit all the records pertaining to H.M.O.P.No.23 of 2013 to the file of the Family Court, Salem, within a period of two weeks from the date of receipt of a copy of this order. Likewise, the Presiding Officer, Additional Mahila Magistrate Court, Salem, is directed to transmit all the records pertaining to D.V.O.P.No.78 of 2014 to the file of the Family Court, Salem, within a period of two weeks from the date of receipt of a copy of this order. The Presiding Officer, Family Court, Salem, is directed to dispose of all the three cases jointly within a period of six months from the date of receipt of material papers, after following the procedure and giving opportunity to both sides.

9. With the above direction, the Transfer Civil Miscellaneous Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Presiding Officer,
Additional Mahila Magistrate Court, Salem.
 2. The Principal Subordinate Judge, Cuddalore.
 3. The Judge, Family Court, Salem.
- +2 ccs to Mr.D.Nellaiappan Advocate sr.60281
+1 cc to Mr.R.Nalliyappan Advocate sr.60186

Tr.C.M.P. No.835 of 2014
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