

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Tr.C.M.P. Nos.294 and 295 of 2015
and
M.P.Nos. 1, 1, 2 and 2 of 2015

J.Boobalan ... Petitioner in both Tr.C.M.Ps

Vs.

S.Renugadevi ... Respondent in both Tr.C.M.Ps

Prayer in Tr.C.M.P.No.294 of 2015:- Petition has been filed under Section 24 r/w. 151 of C.P.C., to withdraw the proceedings pending in H.M.O.P.No.350 of 2014 from the file of Family Court, Coimbatore and transfer the same to any other Competent Court outside the Coimbatore District.

Prayer in Tr.C.M.P.No.295 of 2015:- Petition has been filed under Section 24 r/w. 151 of C.P.C., to withdraw the proceedings pending in H.M.O.P.No.372 of 2014 from the file of Family Court, Coimbatore and transfer the same to any other Competent Court outside the Coimbatore District.

For Petitioner
in both Tr.C.M.Ps : Mr.E.K.Kumaresan

For Respondent
in both Tr.C.M.Ps : Mr.I.Arar Md. Abdullah

COMMON ORDER

These petitions are filed by the husband to transfer H.M.O.P.Nos.350 and 372 of 214 from the Family Court, Coimbatore to any other Competent Court outside the Coimbatore District.

2.The petitioner/husband filed H.M.O.P.No.372 of 2014 on the file of the Family Court, Coimbatore for restitution of conjugal rights. The respondent/wife filed H.M.O.P.No.350 of 2014 on the file of the Family Court, Coimbatore for divorce.

3.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4.Learned counsel for the petitioner/husband submitted that whenever he is attending the Court on each and every hearing, criminal complaint has been given against him. Hence, he prayed for transfer both the cases in H.M.O.P.Nos.350 of 2014 and 372 of 2014 from the file of the Family Court, Coimbatore to any other Court.

5.At this juncture, the learned counsel for the respondent would submit that the respondent/wife along with her 4 years old male child were taking shelter under the care of her parents and residing at Coimbatore and hence, there is no need to transfer the cases. However, he prayed for early disposal of the cases.

6.Considered the rival submissions made on both sides and perused the typed set of papers.

7.The petitioner/husband filed H.M.O.P.No.372 of 2014 on the file of the Family Court, Coimbatore for restitution of conjugal rights and the respondent/wife filed H.M.O.P.No.350 of 2014 before the same Court for divorce. Even though the petitioner/husband has filed a petition for restitution of conjugal rights before the Family Court, Coimbatore, he has come forward with these petitions to transfer the same to any other Court except the Family Court, Coimbatore. According to them, the petitioner and the respondent got married in the year 2008 and the child was born in the year 2012, who is now aged about 4 years. Therefore, applying the guidelines laid down in 2000 (2) T.L.N.J.158 (Sudha v. Vaidyanathan), the wife is entitled to transfer the case to her own place. But here in this case, both the cases are pending before the Family Court, Coimbatore where the respondent/wife and the child are residing. in such circumstances, I do not find any reason to transfer the cases from the Family Court, Coimbatore. Hence, the Transfer Miscellaneous Petitions deserve to be dismissed.

8.In the result, the Transfer Miscellaneous Petitions are dismissed. However, it is left open to the petitioner that whenever he face life threat he may very well sought for police protection and give complaint before the Police Station. Consequently, miscellaneous petitions are closed. No costs.

9.Considering the representation made by both sides, the Presiding Officer, Family Court, Coimbatore is directed to dispose of both the cases in H.M.O.P.Nos.350/2014 and 372/2014 within six months from the date of receipt of a copy of this order and also directed to consider the petition filed by the petitioner/husband for dispensing with his personal appearance in accordance with law. The Presiding Officer, Family Court, Coimbatore is also directed to dispose the interim maintenance application within one month from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse

To

The Presiding Officer,
Family Court,
Coimbatore.

+1cc to Mr.E.K.Kumaresan, Advocate, S.R.No.64586
+1cc to Mr.I.Abrar Md. Abdullah, Advocate, S.R.No.64930

Tr.C.M.P. Nos.294 and 295 of 2015
and
M.P.Nos.1, 1, 2 and 2 of 2015

VS(CO)
CA(16/12/2015)

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