

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Tr.C.M.P.NO.355 of 2013
and
M.P.No.1 of 2013

Prashanth Mittal

... Petitioner

Vs.

Pinky Gupta

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to transfer the H.M.O.P.No.108 of 2012 pending on the file of the Sub Court, Chidambaram to any of the Family Court within the jurisdiction of Chennai.

For Petitioner : Mr.MD.Ashfaq Rafi
For Respondent : Mr.M.Jayakumar

JUDGMENT

The petitioner/husband come before this Court seeking transfer of H.M.O.P.No.108 of 2012, filed by the wife, on the file of Sub Court, Chidambaram to the file of Family Court, Chennai.

2. The petitioner got married with the respondent on 08.07.2003 in Chennai and thereafter they lived together at Varrangal and Bangalore. However, due to dispute, the respondent left the matrimonial home leaving the children with the petitioner and residing in Chidambaram. In Chidambaram, proceeding has been initiated by the wife for divorce and only to transfer the said petition, the respondent has come before this Court.

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

4. Admittedly, the marriage was celebrated in Chennai and they lived together at Warrangal and Bangalore. Even though Section 19 (iii) of the Hindu Marriage Act, 1955, gives right to the respondent to maintain H.M.O.P. before Chidambaram, namely, the place of residence of the respondent, it is seen that the petitioner is residing with the children in Warrangal. He has to travel about 800 kms, totally 1600 kms to and fro. If the father is away, definitely the children will be affected.

5. In view of that the petition is ordered to be transferred to Family Court, Chennai from the file of Sub Court, Chidambaram. Therefore, H.M.O.P.No.108 of 2012 pending on the file of Sub Court, Chidambaram is ordered to be withdrawn and transfer to the file of Family Court, Chennai.

6. In view of the above, this petition is allowed. No costs.

Sd/-
Assistant Registrar
Dated:16.3.15

True Copy

Sub Assistant Registrar

To

1.The Subordinate Judge, Sub Court,
Chidambaram.

2.The Family Court,
Chennai.

+1 cc to Mr.M.Jayakumar, Advocate, SR.12763

+1 cc to M/s.Ma.Ashfaq Rafi, Advocate, SR.12146.

nm(co)
krd 23/3

Tr.C.M.P.NO.355 of 2013

सत्यमेव जयते
WEB COPY