



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.06.2015
CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.118 of 2015 and
M.P(MD)No.1 of 2015

S. Basheer Ahamed ... Petitioner/Respondent
Vs.

B. Ayisha ... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in O.S.No.17 of 2012, on the file of the Family Court, Madurai and transfer the same to III Additional Family Court, Chennai and tried along with O.S.No.149 of 2006, filed by the respondent.

For Petitioner : Mr.S.Ramasamy

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer O.S.No.17 of 2012, from the file of Family Court, Madurai, to III Additional Family Court, Chennai to be tried along with O.S.No.149 of 2006, filed by respondent.

2. The petitioner herein is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 22.04.1984, as per Muslim Rites and Customs. Two male children were born in the wedlock. Due to mis-understanding between the petitioner and respondent, the respondent filed O.S.No.17 of 2012, on the file of Family Court, Madurai for recovery of arrears of maintenance and filed O.S.No.149 of 2006, on the file of II Additional Family Court, Chennai, for divorce.

3. This Transfer CMP is filed by the husband who is the defendant in O.S.No.17 of 2012, stating that the respondent / wife already filed O.S.No.149 of 2006, on the file of III Additional Family Court, Chennai, for divorce and the same is pending. Both the petitioner and respondent are attending hearing at Chennai regularly. Therefore, he prays for transfer of O.S.No.17 of 2012 from the file of Family Court, Madurai, to III Additional Family Court, Chennai to be tried along with O.S.No.149 of 2006.

4. The respondent entered appearance through advocate. There is no representation on 22.06.2015 and therefore, the matter has been posted today. Today also there is no representation for the respondent.

5. From the pleadings it is seen that, the respondent is residing at Gandhipuram, Thiruvallur- 602 001. She has already filed O.S.No.149 of 2006 and the same is pending, on the file of III Additional Family Court, Chennai.



6. Heard the learned counsel appearing for the petitioner.

7. In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue are one and the same and to avoid conflicting decisions and in the interest of justice, both O.S.No.17 of 2012 and O.S.No.149 of 2016 are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the husband is liable to be allowed.

8. Accordingly, the Transfer CMP is allowed and O.S.No.17 of 2012, pending on the file of Family Court, Madurai, is ordered to be withdrawn and transferred to the file of III Additional Family Court, Chennai, to be tried along with O.S.No.149 of 2006, filed by the respondent, if the same is not yet disposed of. The learned Family Court Judge, Madurai, is directed to transmit the entire records pertaining to the case in O.S.No.17 of 2012, to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

To

1. The Family Court, Madurai

2. The III Additional Family Court, Chennai.

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Ramasamy, Advocate SR.No.32950

+1cc to Mr.P.Subbiah, Advocate SR.No.33044

Tr.C.M.P(MD)No.118 of 2015 and
M.P(MD)No.1 of 2015
23.06.2015

trp

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