



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.06.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.61 of 2015 and
M.P(MD)No.1 of 2015

S.Mohan

... Petitioner

Vs.

Subbulakshmi @ Shanthi

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.4942 of 2014 on the file of the Hon'ble Family Court No.II, Chennai and transfer the same to Hon'ble Family Court Judge, Madurai and try along with H.M.O.P.No.302 of 2013.

For Petitioner : Mr.P.Mahendran

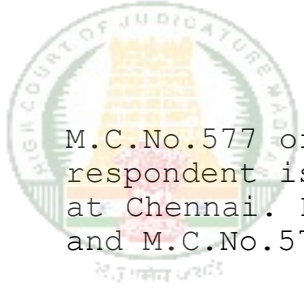
For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.4942 of 2014 on the file of the Family Court No.II, Chennai and transfer the same to the Family Court, Madurai and to be tried along with H.M.O.P.No.302 of 2013.

2. The petitioner herein is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 01.09.1985, as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in matrimonial home and two female children were born in the wedlock. Due to misunderstanding between the petitioner and the respondent, the respondent left the matrimonial home and filed a petition in H.M.O.P.No.296 of 2010 before the Family Court, Madurai, and she has filed the maintenance case in M.C.No.66 of 2010 before the same Court. The respondent voluntarily withdrew her petition in H.M.O.P.No.296 of 2010. Subsequently, the petitioner filed H.M.O.P.No.302 of 2013 before the Family Court, Madurai for divorce. In that petition, the respondent filed counter affidavit on 01.08.2014. H.M.O.P., was posted for cross-examination of P.W.1 and the counsel for the respondent partly cross-examined the petitioner and the H.M.O.P., was posted for further cross-examination on 24.11.2014. The respondent did not appear on that day. Therefore, again adjourned to 23.12.2014. Even after taking various adjournments, the respondent did not appear and cross-examine the petitioner. Therefore, the trial Court passed ex-party order against the respondent.

3. In the meantime, the respondent filed another H.M.O.P.No.4942 of 2014 for Restitution of Conjugal Rights before the Family Court II, Chennai, suppressing the entire facts and earlier proceedings. She filed



M.C.No.577 of 2014 for maintenance before the Family Court I, Chennai. The respondent is living with her mother only at Madurai and she is not living at Chennai. By furnishing false address, she filed H.M.O.P.No.4942 of 2014 and M.C.No.577 of 2014 before the Family Court, Chennai.

4. The respondent filed I.A.No.88 of 2015 in H.M.O.P.No.302 of 2013 to set aside the ex-parte order. The said I.A.No.88 of 2015 was allowed and that H.M.O.P.No.302 of 2013 is taken on file and is posted for cross-examination of P.W.1.

5. In the above circumstances, the petitioner filed this petition to transfer the aforesaid HMOP No.4942 of 2014 filed by the respondent wife, before the Family Court II, Chennai, to Family Court, Madurai, to be tried along with HMOP.No.302 of 2013, on the file of the Family Court, Madurai.

6. Heard the learned counsel appearing for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through pleader.

7. From the records, it is seen that already H.M.O.P., filed by the petitioner was ripe for trial and the petitioner was cross-examined partly. In the circumstances, the respondent filed the H.M.O.P., and M.C., claiming maintenance before the Family Court, Chennai.

8. In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both the H.M.O.Ps., viz., , H.M.O.P.No.4942 of 2014 and H.M.O.P.No.302 of 2013 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.

9. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.4942 of 2014, on the file of the Family Court No.II, Chennai filed by the respondent is hereby withdrawn and transferred to the file of the Family Court, Madurai, to be tried along with H.M.O.P.No.302 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned Family Court Judge No.II, Chennai is directed to send the case bundles to the Family Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The H.M.O.P, is pending from the year 2013. The learned Family Court Judge, Madurai is directed to dispose both the cases as expeditiously as possible in any event not later than 31st December 2015.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1.The Judge, Family Court No.II, Chennai.

2.The Judge, Family Court, Madurai.

Copy to

1. The Sub Assistant Registrar(Judicial) Judicial Section,
Madurai Bench of Madras High Court, Madurai.

2 The Section officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.P.Mahendran, Advocate in SR.No 34910

TS/24.07.2015/3P - 6C

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