

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.113 OF 2015

AND

M.P NO.1 OF 2015

S.Prabhu

... Petitioner

Versus

T.Yuvarani

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw F.C.O.P.No.20 of 2015 filed by the respondent herein pending on the file of Family Court at Vellore and transfer the same to the file of Principal Judge Family Court, Chennai to be tried along with F.C.O.P.No.4694 of 2014 pending before the Principal Judge Family Court, Chennai.

For Petitioner : Dr.C.Ravichandran

For Respondent : No appearance

O R D E R

The petitioner filed a matrimonial proceedings in F.C.O.P.No.4694 of 2014 before the Principal Judge, Family Court, Chennai, praying for a decree of divorce.

2. The respondent, on receipt of notice from the Trial Court, filed a petition under Section 9 of the Hindu Marriage Act, before the Family Court at Vellore, in F.C.O.P.No.20 of 2015.

3. The petitioner entered appearance before the Trial Court and thereafter, having found that the atmosphere in the Court at Vellore was not conducive for trial or for settlement, on account of the stand taken by a particular lawyer, who is on record for the respondent, filed this petition for transfer.

4. Heard the learned counsel for the petitioner. None appears on behalf of the respondent, in spite of service of notice and printing her name in the cause list.

5. The petitioner filed the divorce petition at the first instance, in F.C.O.P.No.4694 of 2014, before the Principal Judge, Family Court, Chennai. It was only thereafter, the respondent filed F.C.O.P.No.20 of 2015, for restitution of conjugal rights, before the Family Court at Vellore.

6. The respondent filed Tr.C.M.P.No.763 of 2015, for withdrawal of the proceedings, in F.C.O.P.No.4694 of 2014, from the file of the learned Judge, Family Court, Chennai and to transfer the same to the Family Court, Vellore. The said Transfer Civil Miscellaneous Petition was dismissed for non-prosecution, by order dated 28.09.2016.

7. The petitioner, in his affidavit filed in this transfer petition contended that when he appeared before the Family Court at Vellore, he was threatened by the respondent, and her men, including her advocate.

8. The petitioner, in his additional affidavit, dated 22.10.2016 submitted that there was a mediation for settling the matter. However, the counsel for the respondent, by name, Thiru. P.K.Sridhar was not agreeable for settlement, unless a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only) was paid to the respondent. In fact, the above referred counsel for the respondent, telephoned to the counsel for the petitioner herein, on multiple occasions and threatened that unless the amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only) is paid, the petitioner would not be permitted to defend the proceedings in F.C.O.P.No.20 of 2015 pending on the file of Family Court, Vellore.

9. The learned counsel for the petitioner contended that the matter would be settled, in case, it is referred to mediation. According to the learned counsel, the Advocate, by name Thiru. P.K.Sridhar, is standing in the way of settlement and he is not permitting the respondent to appear before this Court and that was the reason respondent failed to respond to the summons issued by this Court.

10. The proceedings in F.C.O.P.No.4694 of 2014 was filed at the first instance and it was only thereafter, the respondent filed F.C.O.P.No.20 of 2015, before the Family Court at Vellore. The petitioner is prepared to settle the matter, in case the respondent appears before the Mediation Centre.

11. The petitioner in his affidavit filed in support of this transfer petition, narrated the difficulties faced by him when he appeared before the Family Court at Vellore.

12. There should be a conducive atmosphere at the court premises either to prosecute or to defend the

proceedings. The unreasonable attitude taken by the lawyer appearing on behalf of the respondent appears to be the primary reason for filing this transfer petition by the petitioner.

13. The learned counsel for the petitioner submitted that the matter would be settled, in case the respondent is made to appear before the mediator. The only way to tackle this situation is to transfer the proceedings to the Family Court at Chennai, so that the counsel for the respondent would not be in a position to stall the proceedings. I am therefore of the view that the Transfer Civil Miscellaneous Petition deserves to be allowed.

14. The proceedings in F.C.O.P.No.20 of 2015 is withdrawn from the file of Family Court, Vellore and is transferred to the file of Principal Judge Family Court, Chennai, for disposal along with F.C.O.P.No.4694 of 2014.

15. The learned Principal Judge Family Court, Chennai is directed to refer the parties to mediation before taking up the matter for trial. It should be the endeavour of the learned Principal Judge Family Court, Chennai, to arrive at a settlement between the parties.

16. The Transfer Civil Miscellaneous Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Family Court
Vellore.
2. The Principal Judge
Family Court
Chennai.

+1cc to Dr.C.Ravichandran, Advocate, S.R.No.62718

TR C.M.P.NO.113 OF 2015

BR(CO)
CA(08/12/2016)

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