

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

TR.C.M.P.No.318 of 2015

and

M.P.No.1 of 2015

Dr.Vivekananth Kanaganayagam ...Petitioner/Petitioner

Vs.

Geetha Kuppusamy ...Respondent/Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the proceedings in HMOP No.129 of 2011 file by this petitioner pending on the file of Sub Court at Pollachi and transfer the same to the file of Hon'ble Principal Family court, Coimbatore to be tried along with HMOP No.1168 of 2011 pending before the Principal Family Court, Coimbatore.

For Petitioner : Dr.C.Ravichandran

ORDER

The petitioner is the husband and the respondent is his wife. The respondent filed HMOP No.1168/2011 on the file of Family Court, Coimbatore, which is now pending on the file of Principal Judge, Family Court, Coimbatore, for restitution of conjugal rights. The petitioner (husband) filed HMOP No.129/2011 on the file of the Sub Court, Pollachi for divorce. Now the petitioner (husband) has approached this court with the present Transfer Civil Miscellaneous Petition for transfer of his HMOP, namely HMOP No.129/2011 from Sub Court, Pollachi to the Court of Principal Judge, Family Court, Coimbatore for being tried along with HMOP No.1168/2011 filed by the respondent (wife) for restitution of conjugal rights.

2. As directed by this court, notice was served on the respondent and the respondent's name finds a place in the cause list. Despite the fact that the respondent was served with notice and her name appears in the cause list, none appears on her behalf. Hence this court deems it appropriate to hear the submissions to be made on behalf of the petitioner and pass orders. Accordingly, the arguments advanced by Dr.C.Ravichandran, learned counsel for the petitioner are heard. The Transfer CMP, supporting affidavit and the

connected papers produced in the form of typed set of papers are also perused.

3. It is a fact which can be ascertained from the particulars found in the typed set of papers that the HMOP No.129/2011 filed by the husband for divorce was filed earlier in point of time and the petition, namely HMOP No.1168/2011 for restitution of conjugal rights, came to be filed by the wife subsequently. Even then the petitioner showing fair play wants his case instituted on the file of the Sub Court, Pollachi, to be transferred to the court of the choice of the respondent, namely the court of the Principal Judge, Family Court, Coimbatore, in which her HMOP is pending. This court is not in a position to see any lack of bona fide or malafide on the part of the petitioner in seeking the transfer of the divorce OP filed by him to the Family Court, Coimbatore to be tried along with petition for restitution of conjugal rights filed by his wife. The respondent also has not chosen to enter appearance to oppose this petition. Hence this court deems it appropriate to allow the Transfer Civil Miscellaneous Petition.

4. Accordingly, the transfer civil miscellaneous petition is allowed. HMOP No.129/2011 pending on the file of Sub Court, Pollachi is withdrawn and transferred to the file of the Principal Judge, Family Court, Coimbatore to be tried jointly with HMOP No.1168/2011 filed by the respondent (wife). The Principal Judge, Family Court, Coimbatore, shall make every endeavour to dispose of the HMOPs as early as possible, in any event, within six months from the date of receipt of records of the transferred case, namely HMOP No.129/2011 from Sub Court, Pollachi. Consequently, the connected miscellaneous petition is closed.

sd/-

सत्यमेव जयते
Assistant Registrar(J)

/TRUE COPY/

Sub-Assistant Registrar

gpa

To

- 1.The Principal Judge, Family Court, Coimbatore
- 2.The Sub Judge, Pollachi

+1 CC to Dr.C.Ravichandran Advocate. SR.NO.6728

TR.C.M.P.No.318 of 2015

CO-ALA

JD 11/02/2016