

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

TR.C.M.P.No.125 of 2017 &
C.M.P.No.2108 of 2017

E.Marimuthu

... Petitioner

v.

G.Nithila

... Respondent

Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer the above the O.P.No.4037 of 2015 pending before the Hon'ble II Additional Family Court at Chennai to the Hon'ble Subordinate Court at Chengalpattu.

For Petitioner : Mr.A.M.Natraj

For Respondent : Mr.T.S.Rajamohan

O R D E R

The petitioner, who is the husband of the respondent has filed the above Tr.C.M.P. to withdraw the H.M.O.P.No.4037 of 2015 pending on the file of II Additional Family Court, Chennai and to transfer the same to the file of Subordinate Court, Chengalpattu.

2. The respondent/wife filed H.M.O.P.No.4037 of 2015 for nullity of marriage. The petitioner/husband filed his counter and is contesting the matter. The Original Petition was taken up for trial and the evidence on the side of the respondent was also completed and the Original Petition is posted for cross examination of the petitioner. At this stage, the petitioner filed another Original Petition in O.P.No.4 of 2017 on the file of Subordinate Court, Chengalpattu for restitution of conjugal rights.

3. It is brought to the notice of this court that earlier, the respondent filed a Civil Revision Petition in CRP

(PD) 1868 of 2016 and this court, by order dated 23.06.2016, directed the II Additional Family Court, Chennai to dispose of the Original Petition in O.P.No.4037 of 2015, within a period of four months. However, the II Additional Family Court, Chennai has not disposed of the same and complied with the orders of this court yet.

4. On a perusal of the materials available on record, it is evident that the petitioner has filed the Original petition in O.P.No.4 of 2017 for restitution of conjugal rights before the Subordinate Court, Chengalpattu only for transferring the Original Petition in H.M.O.P.No.4037 of 2015 and dragging on the matter for an indefinite period. The reasons stated in the affidavit filed in support of the Tr.C.M.P. cannot be accepted and the petitioner has not made out a case for withdrawing and transferring H.M.O.P.No.4037 of 2015 on the ground that he has filed another Original Petition before the Subordinate Court Chengalpattu only recently,

5. In these circumstances, I do not find any merits in the matter. The Tr.C.M.P. is liable to be dismissed. The II Additional Family Court, Chennai is directed to dispose of the Original Petition in H.M.O.P.No.4037 of 2015 on or before 28.04.2017.

With these observations, the Tr.C.M.P. is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

Rj
To
The II Additional Family Court,
Chennai

+2ccs to Mr.T.S.Rajamohan,Advocate sr.15140

+1cc to Mr.A.M.Natarajan,Advocate sr.15233

TR.C.M.P.No.125 of 2017 &
C.M.P.No.2108 of 2017

ad(co)
ss(14/3/2017)