

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.01.2017
CORAM
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA
TR.CMP.No.571 of 2016
and
C.M.P.No.15534 of 2016

S.Pushpanathan

.. Petitioner

vs

Parameswari

.. Respondent

Prayer: Transfer Civil Miscellaneous petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw O.S.No.433 of 2015 pending on the file of the learned Subordinate Judge, Thiruppur and to transfer the same to the file of the Sub Court, Bhavani, Erode District.

For Petitioner : Mr.A.Rajesh Khanna

For Respondent : Mr.K.Vijayakumar

ORDER

The above petition has been filed seeking to withdraw O.S.No.433 of 2015 pending on the file of the learned Subordinate Judge, Thiruppur and to transfer the same to the file of the Sub Court, Bhavani, Erode District.

2. The brief facts of the case would run thus:

(i) The respondent/plaintiff filed the suit in O.S.No.433 of 2015 before the Sub Court, Thiruppur, seeking partition and separate possession as against the petitioner/defendant on the ground that the suit property was purchased jointly by both of them.

(ii) The petitioner/defendant has filed the written statement stating that the respondent is the wife of the petitioner and due to the ill-advice given by the respondent family members they both do not have a cordial relationship and are living separately. Further, it is stated that the petitioner herein out of his own income had purchased the suit property and therefore, the suit is not maintainable.

(iii) It is also stated by the petitioner that he has also filed HMOP as against the respondent before the Sub Court, Bhavani and the same is pending. However, no documents are filed before this Court, evidencing the same.

(iv) As the petitioner apprehends safety and security to his life, if he attends the Court proceedings before the Sub Court, Tiruppur, the above petition has been filed seeking transfer of the suit to the file of the Sub Court, Bhavani.

3. Heard both sides and perused the records.

4. Considering the facts and circumstances of the case and the relationship between the parties, without going into the merits of the matter and also in view of the apprehension expressed by the petitioner at the hands of the respondent, this Court is inclined to pass the following order:

(i) The suit filed by the respondent in O.S.No.433 of 2015 and pending on the file of the Sub Court, Thiruppur is directed to be withdrawn and is transferred to the file of the Sub Court, Perundurai.

(ii) The Sub Court, Thiruppur is directed to send all the papers pertaining to the above suit to the Sub Court, Perundurai immediately, on receipt of a copy of this order.

5. With the above direction, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vj2

To

1. The Subordinate Judge, Tiruppur.

2. The Subordinate Judge, Perundurai.

+1 cc to Mr.A.Rajesh kanna Advocate sr 4733

+1 cc to Mr.V.Vijayakumar Advocate sr 4649

TR.CMP.No.571 of 2016

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