

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.08.2018

PRONOUNCED ON : 30.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 503 of 2018

and

CMP.No.12372 of 2018

Chandramohan Petitioner
Vs.

Amsa Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMCMA No.2 of 2017 from the file of II Additional District Court, Ranipet and transfer the same to the file of this Court for hearing along with CMA 2320/2010.

For Petitioner : Mr.S.Sounthar

For Respondent :Mr.T.P.Prabhakaran

ORDER

The petitioner is the husband. The respondent is the wife.

2.The marital life between the parties is not cordial.

3.Seeking divorce, the petitioner has levied MOP.No.15 of 2008 against the respondent and the same had been pending on the file of the Additional District Court, Puducherry at Karaikal. It is seen that the respondent had contested the aboveesaid divorce proceeding and after contest, MOP No.15 of 2008 has come to be dismissed. Challenging the same, the petitioner has preferred CMA No.2320 of 2010 and the same is pending on the file of the High Court, Madras.

4.It is found that the respondent has levied HMOP No.181 of 2012 against the petitioner for restitution of conjugal rights and the same had been pending on the file of the Sub-Court, Ranipet and been contested by the petitioner. The said HMOP,

after contest, is found to have been allowed. Challenging the same, it is found that the petitioner has preferred HMCMA No.2 of 2017 and the same is pending on the file of the II Additional District Court, Ranipet.

5.As such, it is found that two appeal proceedings are pending in different forums as regards the marital issues involved between the parties. In such view of the matter, it is found that if both the proceedings are determined by one and the same Court, we can avoid the conflict of decisions and it is thus found that the determination of both the proceedings by one and the same Court would be beneficial to both the parties. On the abovesaid ground, the petitioner has come forward with the present petition seeking to transfer HMCMA No.2 of 2017 pending on the file of the II Additional District Court, Ranipet to the file of the High Court for joint hearing along with CMA No.2320 of 2010. The respondent's counsel would resist the transfer request of the petitioner on the footing that if the HMCMA preferred by the petitioner is transferred to the file of the High Court, in the event of the disposal of the same, she would be deprived of presenting further appeal to the High Court and therefore, resisted the transfer request of the petitioner.

6.Considering the position that the issues involved between the parties as regards the marital life are pending in two different forums in the appeal proceedings, accordingly, in my considered opinion, the joint determination of the two proceedings by one and the same Court would serve the cause of justice and also be beneficial to both the parties, as abovenoted, by way of the same, conflict of decisions could be avoided and furthermore, if both the proceedings are determined by the one and the same Court, the parties would be in a better position to put forth their cause one way or the other in support of their version in both the matters and accordingly, the common forum would be in a better position to adjudicate the issues involved between the parties. In such view of the matter, the interest of justice would be better served, if the appeal proceedings pending on the file of the II Additional District Court, Ranipet is transferred to the file of the High Court as prayed for by the petitioner.

7.In such view of the matter, the contention of the respondent's counsel that the respondent would be deprived of a further appeal remedy to the High Court, in my considered opinion, cannot be a factor for rejecting the transfer request of the petitioner, when it is found that the determination of both the proceedings by the same Court would be in the interest of both the parties as above discussed.

In the light of the above discussion, HMCMA No.2 of 2017 is withdrawn from the file of the II Additional District Court, Ranipet and transferred to the file of the High Court for joint hearing along with CMA No.2320 of 2010. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP No.12372 of 2018 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The II Additional District Court, Ranipet.

2.The Sub Assistant Registrar,
AE(Main) Section,
High Court, Madras.

3.The Section Officer,
VR Section, High Court,
Madras.

+lcc to Mr.T.P.Prabhakaran, Advocate sr.no.59517

+lcc to Mr.S.Sounthar, Advocate sr.no.59685

in Transfer CMP.No. 503 of 2018
and
CMP.No.12372 of 2018

rsi(co)
nr 26/09/2018

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