

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.09.2018

PRONOUNCED ON : 17.09.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

TR CMP.563/2018

and

CMP.13743/2018

S.Surendarnath ...Petitioner

Vs.

S.PonmaniRespondent

Prayer: Transfer CMP filed under Section 24 of Civil Procedure Code, praying to withdraw HMOP. No.44/2018 from the file of Subordinate Court, Tambaram and transfer the same to II Additional Family Court, Chennai and try along with the HMOP No.1349 of 2017 .

For Petitioner : Mr.K.Narayanan

For Respondent : No appearance.

Set exparte vide order dated 11.09.2018

ORDER

The petitioner is the husband.

2. The respondent is the wife.

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

4. It is seen that the petitioner has laid HMOP No.1349 of 2017 against the respondent for divorce and the same is pending on the file of the II Additional Family Court, Chennai. Subsequent thereof, it is noted that the respondent has filed HMOP. No.44/2018 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Subordinate Court, Tambaram. Seeking transfer of the proceedings from Tambaram court to II Additional Family Court, Chennai and also for the consolidation of the abovesaid two proceedings by way of the joint trial at Chennai Court, the present transfer petition has come to be laid by the petitioner.

5. Though the respondent had been served in this matter, she has not chosen to contest the transfer request of the petitioner.

6. As regards the marital issues between the parties, two

proceedings are pending in different forums. In such view of the matter, in my considered opinion, consolidation of two proceedings together and the determination of the same by one and the same court would be in the interest of both the parties and by way of the same, conflict of decisions could also be avoided. Furthermore, the parties would also be required to adduce common evidence in both the proceedings. Thus, it is found that the cause of justice would be advanced by the determination of the proceedings by one and the same court. That apart, it is seen that the proceeding laid by the petitioner is anterior in time, only thereafter, the case has been laid by the respondent against the petitioner in the sub-court, Tambaram. Furthermore, the petitioner has also averred that the respondent is residing at Pallavaram and therefore there would be no serious prejudice in her attending the court at Chennai and the abovesaid fact has not been controverted and the respondent has not shown any endeavour to contest the transfer petition.

7. In all, it is seen that the transfer request of the petitioner is found to be acceptable, accordingly HMOP. No.44/2018 is withdrawn from the file of Subordinate Court, Tambaram and transferred to the file of II Additional Family Court, Chennai for joint trial along with HMOP No.1349 of 2017 as per law.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

bga

To

1. Subordinate Court, Tambaram
2. II Additional Family Court, Chennai

+1cc to Mr.K.Narayanan, Advocate, S.R.No. 64352

TR CMP.563/2018 and
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GN(28/09/2018)