

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :22.10.2018

PRONOUNCED ON:25.10.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.671 of 2018
and
C.M.P.No.16624 of 2018

E.Thrilok Raj ... Petitioner/Respondent
Vs.

S.Sindhu ... Respondent/Petitioner

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.332 of 2018 on the file of the Additional Family Court, Coimbatore be transferred to the Family Court at Chennai.

For Petitioner : Mr.G.Mutharasu

For Respondent : No representation
No appearance
Set exparte
Vide order dated 22.10.2018

O R D E R

The petitioner is the husband. The respondent is the wife. All is not well qua the marital life of the parties. It is seen that the respondent has laid a divorce case against the petitioner in H.M.O.P.No.332 of 2018 and the same is pending on the file of the Family Court, Coimbatore. It is further seen that the petitioner has laid H.M.O.P.No.648 of 2018 for restitution of conjugal rights and the same is pending on the file of the Principal Judge, Family Court, Chennai.

2. The petitioner has sought for the transfer of matrimonial proceeding laid by the wife to the Chennai Court on the footing that inasmuch as he is working as a Director in the private channel and residing at Chennai, he is unable to attend the divorce case at Coimbatore Court and further also would plead that the counseling facilities are better provided at Chennai Court and hence prayed for the transfer.

3. In this matter, no doubt, though the respondent has entered appearance through counsel, inasmuch as no one represented on behalf of the respondent, when the matter was called and she having been called and remaining absent, she has been set exparte.

4. Materials placed on record go to show that the respondent has already laid domestic violence case against the petitioner in D.V.No.4 of 2018 and the same is pending on the file of the Judicial Magistrate No.I Court, Coimbatore. It is thus found that the petitioner would be required to attend the said proceeding at Coimbatore court and in such view of the matter, in my considered opinion, no serious loss and hardship would be caused to the petitioner in defending the matrimonial proceeding laid by the wife pending on the file of the Additional Family Court, Coimbatore. When it is found that two proceedings laid by the wife are pending on the file of the Courts at Coimbatore and when the petitioner would be required to defend the abovesaid proceedings at Coimbatore courts, the case of the petitioner that the wife's matrimonial proceeding should be transferred to Chennai Court as such cannot be readily accepted.

5. Furthermore, considering the avocation of the petitioner in a private channel, it is seen that he is economically well placed and in such view of the matter, he would not be seriously handicapped if the matrimonial proceeding laid by the wife is continued at Coimbatore Court. The cause projected by the petitioner that he is unable to attend the proceeding at Coimbatore Court on account of his inability to avail leave as such cannot be countenanced and considering the nature of his job and also the two proceedings laid by the wife already pending on the file of the Courts at Coimbatore and the petitioner would be required to defend the same as per law, in such view of the matter, I am unable to accede to the request of the petitioner for transferring the matrimonial proceeding of the wife to the Chennai Court.

6. Furthermore, the other reason given by the petitioner for the transfer is that counseling facilities better provided at Chennai Court and therefore the matter should be transferred to Chennai Court also cannot be accepted readily. It is not the case of the petitioner that the Counseling facilities are not available at Coimbatore court. Accordingly, it is seen that when the counseling facilities are fully available at Coimbatore court, if at all the parties desire to have any reunion, it is always open to them to reach consensus with reference to the same at the counseling centre available at Coimbatore Court and therefore, the abovesaid reason projected by the petitioner for

the transfer also cannot be accepted.

7. As above discussed, the two proceedings laid by the wife against the petitioner are pending on the file of the Courts at Coimbatore. It is thus found that the petitioner would be required to defend the same. Furthermore, the husband's matrimonial proceeding is pending on the file of the Chennai Court. Inasmuch as the common issues are involved in the matter, i.e., the matrimonial proceedings laid by the respective parties, in my considered opinion, the consolidation of the two proceedings and the determination of the same by one and the same court would be beneficial to both the parties and by way of the same, conflict of decisions could be avoided and also the parties would be required to adduce common evidence in both the matters. Thus, it is found that the cause of justice would be advanced if both the proceedings are clubbed together and determined by one and the same court.

8. The two proceedings laid by the wife are pending on the file of the Courts at Coimbatore. In such view of the matter, as the petitioner would be required to defend the abovesaid proceeding at Coimbatore, for the reasons aforestated, in my considered opinion, the matrimonial proceeding of the husband should also be transferred to Coimbatore Court for advancing the cause of justice. By way of the same, considering the status of the petitioner and his income and other factors, it is seen that the petitioner would not be seriously prejudiced or handicapped in defending/conducting the proceeding at Coimbatore. On the other hand, the respondent/wife being a lady and considering the distance between Coimbatore and Chennai being on the higher side, she would be having inconvenience and hardship in attending the proceeding at Chennai.

9. For the reasons aforestated, to meet the ends of justice, H.M.O.P.No.648 of 2018 laid by the petitioner is withdrawn from the file of the Principal Judge, Family Court, Chennai and transferred to the file of the Additional Family Court, Coimbatore for joint trial along with H.M.O.P.No.332 of 2018 as per law. Accordingly, the Transfer Miscellaneous Petition is disposed of. Consequently, connected miscellaneous petition, if any is closed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

mfa

To

1. The Additional Family Court, Coimbatore.

2. The Family Court at Chennai.

+1cc to M/s.S.Sathiyarayanan, Advocate SR.No.73394

+1cc to Mr.D.Suriya Narayanan, Advocate SR.No.73290

Tr.C.M.P.No.671 of 2018
and
C.M.P.No.16624 of 2018

CNR (CO)

GMV (19/11/2018)

