

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN
Transfer CMP. No.726 of 2018
and C.M.P.No.17783 of 2018

V.Sivapriya

... Petitioner

Vs

R.Mathivanan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of the Civil Procedure to withdraw the case in H.M.O.P.No.430 of 2018, pending on the file of the learned Subordinate Judge, Tambaram and to transfer the same to the learned I Additional Judge, Family Court, Chennai, where the M.C.No.385 of 2018 is pending.

For Petitioner : Mr.M.Aravindan

For Respondent : Mr.G.V.Jaganmohanmurthy

O R D E R

This petition is filed by the petitioner/wife to withdraw the case H.M.O.P.No. 430 of 2018, pending on the file of the learned Subordinate Judge, Tambaram and to transfer the same to the file of the learned I Additional Judge, Family Court, Chennai, to try along with M.C.No.385 of 2018.

2. On 20.11.2005, the marriage between the petitioner and the respondent was solemnized in V.N.C.Thirumana Mandapam, according to Hindu Rites and Customs. After the marriage, the petitioner gave birth to one female child and thereafter, due to difference of opinion with the respondent, she left the matrimonial home and residing with her parents.

3. In the mean time, the respondent filed an application under Section 13(1) (i-a) and 13(1) (i-b) of the Hindu Marriage Act, 1955 seeks the relief of dissolution of marriage, the said petition is now pending before the learned Subordinate Judge, Tambaram as H.M.O.P 430 of 2018. After filing the said application by the respondent, the petitioner filed a petition before the Family Court, Chennai, in which she is seeking the maintenance for her minor child and the same is now pending before the learned I Additional Judge, Family Court, Chennai as M.C.No.385 of 2018. Now the petitioner filed the

present petition under Section 24 CPC before this Court in which, she seeks the relief to transfer the above said H.M.O.P.No.430 of 2018, from the Court of the learned Subordinate Judge, Tambaram to the learned I Additional Judge, Family Court, Chennai for avoiding conflict of Judgment and for avoiding multiplicity of proceedings.

4. Today, when the application is taken up for consideration, the learned counsel appearing for the respondent filed a Memo, stating that the respondent is not having any objection in transferring the case in H.M.O.P.No.430 of 2018, from the file of the Subordinate Court, Tambaram to the file of I Additional Family Court, Chennai. The Memo filed by the respondent is recorded.

5. Accordingly, the Transfer civil Miscellaneous Petition is ordered. The case in H.M.O.P.No.430 of 2018 is ordered to be withdrawn from the file of the learned Subordinate Judge, Tambaram, and to be transferred to the learned I Additional Judge, Family Court, Chennai, to try along with the M.C.No.385 of 2018, filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting Judgments being delivered by two different Courts. The learned Subordinate Judge, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.430 of 2018 on the file of the learned learned Subordinate Judge, Tambaram, to the I Additional Judge, Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned I Additional Judge, Family Court, Chennai, is directed to dispose of the cases as expeditiously as possible. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

1. The Subordinate Court, Tambaram.

2. The I Additional Family Court, Chennai.

+2ccs to Mr.M.Aravindan , Advocate SR.No. 79373

+1cc to Mr.G.V.Jaganmohanmurthy , Advocate SR.No.79364

Transfer CMP. No.726 of 2018
and

C.M.P.No.17783 of 2018

ASK (14/12/2018)