

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 03.12.2018

JUDGMENT PRONOUNCED ON : 10.12.2018
CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.736 of 2018
and C.M.P.No.17979 of 2018

D.Kesavan .. Petitioner
versus
D.Anitha .. Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw G.W.O.P.No.20 of 2018 pending on the file of the Principal District Court, Chengalpet and transfer the same to the file of the IV Additional Family Court, Chennai, to try along with F.C.O.P.Nos.3212 of 2015 and 1772 of 2017 pending on its file.

For Petitioner : Mr.K.S.Kumar
For Respondent : M/s.Mumtaj Surya

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw G.W.O.P.No.20 of 2018 pending on the file of the Principal District Court, Chengalpet and transfer the same to the file of the IV Additional Family Court, Chennai, to try along with F.C.O.P.Nos.3212 of 2015 and 1772 of 2017 pending on its file.

2. The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was solemnized on 16.02.2004 at Sri Devaraj Mahal, Krishnagiri, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living in the matrimonial home at Kodambakkam in Chennai. Due to the wedlock, they were blessed with two children. Subsequent to gave birth to two child, due to difference of opinion, the petitioner left the matrimonial home and living separately along with her parents. In the said circumstances, the petitioner filed a petition before the I Additional Family Court, Chennai, for annulling the marriage happened between them. The said petition is now pending before the I Additional Family Court, Chennai as F.C.O.P.No.3212 of 2015. In the meantime, the respondent filed a petition before the Sub Court, Krishnagiri, for the relief of restitution of conjugal rights, the said petition

is now pending before the Sub Court, Krishnagiri as H.M.O.P.No.124 of 2015. In both the petitions, both of them made various allegations against each other.

3. In the said circumstances, the petitioner filed Tr.C.M.P.No.191 of 2016 before this Court seeking to transfer H.M.O.P.No.124 of 2015 on the file of the Sub Court, Krishnagiri, to the file of the I Additional Family Court, Chennai. In the meanwhile, the respondent has also filed Tr.C.M.P.No.193 of 2016 seeking the relief to transfer F.C.O.P.No.3212 of 2015, now pending on the file of the I Additional Family Court, Chennai to the Sub Court, Krishnagiri. By virtue of the order dated 21.02.2017, this Court allowed the petition filed by the petitioner and ordered to transfer H.M.O.P.No.124 of 2015 now pending on the file of the Sub Court, Krishnagiri, to the file of the I Additional Family Court, Chennai.

4. Subsequent to that, the petitioner filed petition under Section 6 of the Hindu Minority and Guardianship Act, 1956 r/w Guardians and Wards Act before the Principal District Court, Chengalpet, in which, he is seeking the relief for the custody of the children saying that he is the natural guardian. The said petition is now pending before the Principal District Court as G.W.O.P.No.20 of 2018. In the said circumstances, the Transfer Civil Miscellaneous Petition is filed by the petitioner to transfer the said G.W.O.P.No.20 of 2018 from the file of the Principal District Court, Chengalpet to the file of the IV Additional Family Court, Chennai.

5. The learned counsel appearing for the petitioner would contend that, since the connected petition in respect of the disputes between the petitioner and the respondent are pending before the IV Additional Family Court, Chennai, transferring the said G.W.O.P.No.20 of 2018 to the file of the IV Additional Family Court, is necessary for avoiding the multiplicity of proceedings.

6. However, the learned counsel appearing for the respondent submitted that the respondent has no objection to transfer the said G.W.O.P.No.20 of 2018 pending on the file of the Principal District Court, Chengalpet, to the file of the IV Additional Family Court, Chennai, and he has also made an endorsement to that effect.

7. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and also perused the materials available on record.

8. Even though the petition filed under the provisions of Guardians and Wards Act has to be decided within the jurisdiction, wherein the children of the petitioner are residing. In this case, it is an admitted fact that the connected petitions filed by the petitioner as well as the respondent are now pending before the IV Additional Family Court, Chennai. It is also not disputed that the issue raised in G.W.O.P.No.20 of 2018 is connected with the dispute pending between the petitioner and respondent, so, if the prayer sought for by the petitioner is entered in favour of him, it is convenient to the petitioner as well as the respondent in attending the court proceedings, thereby, the reason stated by the petitioner is convincing one.

9. In the result, the Transfer Civil Miscellaneous Petition is ordered. The petition in G.W.O.P.No.20 of 2018 is ordered to be withdrawn from the file of the Principal District Court, Chengalpet and transferred to the file of the IV Additional Family Court, Chennai, simultaneously to be tried along with F.C.O.P.Nos.3212 of 2015 and 1772 of 2017 in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The Principal District Judge, Chengalpet, is directed to transmit all the records pertaining to G.W.O.P.No.20 of 2018 to the file of the IV Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned IV Additional Judge, Family Court, Chennai, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

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Sub Assistant Registrar

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To

1.The Principal District Court, Chengalpet.

2.The IV Additional Judge, Family Court, Chennai.

+1cc to Mr.K.S.Kumar , Advocate SR.No. 84848

Tr.C.M.P.No.736 of 2018

A.SK(22/01/2019)