

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
Dated: 13.09.2019  
CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.530 of 2019  
and C.M.P.No.14664 of 2019

D.Raja

..Petitioner

Vs.

S.Kalaivani

...Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in HMOP. No.2832 of 2017 pending on the file of the IV Additional Family Court, Chennai and transfer the same to file of the Sub Court, Poonamallee, to try along with HMOP. No.322 of 2016.

For Petitioner : Mr.Ravichandran.S.

For Respondent : Mr.K.Rajendran  
For Mrs.R.Latha

O R D E R

This petition has come forward with this petition seeking to withdraw the petition in HMOP. No.2832 of 2017 pending on the file of the IV Additional Family Court, Chennai and transfer the same to file of the Sub Court, Poonamallee, to try along with HMOP. No.322 of 2016.

2. The marriage between the petitioner and the respondent was solemnized on 02.12.2010 at Porur Vattara Nadar Thirumana Mandapam, Rajeswari Nagar, Karambakkam, Porur, Chennai as per Hindu Rites and customs. In the lawful wedlock, a male child was born on 19.09.2011. A child is presently with the respondent. While so, the petitioner filed a proceedings in HMOP. No.322 of 2016 seeking dissolution of marriage before the Sub Court, Poonamallee on the ground of cruelty and desertion. In the said matrimonial proceedings, the respondent entered appearance through her counsel and filed counter affidavit. The respondent, in the meanwhile, filed a petition for restitution of conjugal rights in HMOP. No.2832 of 2017 before the IV Additional Family Court, Chennai.

3. While the matter stood thus, the petitioner has filed this petition seeking transfer of the proceeding filed by the petitioner to the Court where he has filed the petition for divorce.

4. The learned counsel for the petitioner contended that since the proceedings initiated by him before the Sub Court, attendance of parties is not necessary. Whereas the proceedings filed by the respondent is pending before the Family Court where the parties should appear for all the hearings. No other ground has been raised by the petitioner for transferring the proceedings pending.

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

6. The reason set out by the petitioner for transfer is very flimsy. Both the proceedings are pending only in and around Chennai. The petitioner may not find it difficult to travel to Chennai to attend the proceedings initiated by the wife. If the petitioner is finding the difficulty to attend the proceedings on working days, he is at liberty to file appropriate petition, requesting the Family Court to post the proceedings initiated by the wife only on Saturdays. This Court is not inclined to grant such prayer sought for by the petitioner.

7. The stage of the case pending before the Family Court is in the stage of cross examination. Hence, the Family Court, Chennai can proceed with the case and dispose it of as expeditiously as possible.

8. In the result, this Transfer Miscellaneous Petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rli

To

1. The IV Judge, Family Court, Chennai.
2. The Sub Judge, Poonamallee.

+1cc to Mr.Ravichandran, Advocate, S.R.No. 78749  
+1cc to Mr.R.Latha, Advocate, S.R.No. 79583

Tr.C.M.P.No.530 of 2019  
and  
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NMI (CO)  
GN(29/11/2019)