



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.756 of 2019

Arun Amalan

... Petitioner

Vs.

A.Santha Devi

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw H.M.O.P.No.44 of 2019 pending on the file of the Sub Court, Poonamallee and transfer the same to any Family Court, City Civil Court, Complex, Chennai.

For Petitioner : Mr.D.Rameshkumar

For Respondent : Mr.M.P.Saravanan

ORDER

This Transfer Civil Miscellaneous Petition is filed by the petitioner/husband seeking to withdraw and transfer H.M.O.P.No.44 of 2019 on the file of the Sub Court, Poonamallee to the Family Court, City Civil Court, Chennai.

2. The case of the petitioner is as follows:

The marriage between the petitioner and the respondent was solemnized on 08.12.2008 and out of their wedlock a male child was born on 18.09.2009. The respondent/wife had love affair before marriage itself with one person. Though the petitioner/husband advised the respondent/wife regarding her activity, she did not hear to him and left the matrimonial home on 26.07.2011. Hence the petitioner/husband has filed H.M.O.P.No.84 of 2014 seeking divorce on the ground of cruelty before the Sub Court, Sankarankoil. After knowing the same, the respondent/wife has filed maintenance petition before the Magistrate Court, Ambattur in M.C.No.15 of 2015 and the same is pending. Further the respondent/wife has filed CMP.(MD) No.34 of 2016 seeking transfer of the petition H.M.O.P.No.84 of 2014 from Sub Court, Sankarankoil to Sub Court, Poonamallee and the same was allowed. The petitioner has to travel 700 kms and it takes more than 12 hrs during peak hours to reach Sub Court, Poonamallee hence the transfer is sought for.



3. The learned counsel for the respondent would submit that if the said petition is transferred to Family Court, City Civil Court Complex, Chennai then the respondent/wife will be put into a great hardship, hence sought for dismissal.

4. Heard both sides and perused the available materials on record.

5. On a perusal of the records, it is seen that the said H.M.O.P.No.84 of 2014 filed by the petitioner/husband before the Sub Court, Sankarankoil was transferred to Sub Court, Poonamalle only on 23.01.2019 and the same was posted for hearing on 31.01.2019 for appearance of the parties. As it is the Sub Court, the petitioner need not appear before the Sub Court for each and every hearing and he can very well engage a counsel and appear whenever it is required. It is also seen that the respondent/wife having small child would be difficult for her to travel if it the petition is transferred to Chennai Family Court.

6. From the above facts, it is clear that the conduct of the petitioner/husband in seeking transfer, has got no bonafide, whereas the respondent/wife is staying at her parent's home along with her minor child, in such circumstances, it will be difficult for her to attend each and every hearing at Chennai Family Court along with the minor child. The petitioner/husband is at liberty to approach the concerned Court for speedy trial if he desires to do so. Accordingly, I do not find any merit in this petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Sub Court, Poonamallee

2. The Family Court,
City Civil Court, Complex, Chennai.

+1cc to Mr.M.P.Saravanan, Advocate SR.97256

+1cc to Mr.D.Ramesh Kumar, Advocate SR.97150

TR C.M.P. No.756 of 2019

SPD(CO)

CB(22/01/2020)