

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.753 of 2019

D.Vignesh

... Petitioner

Vs.

Tmt.S.Saranya

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC with a prayer to withdraw H.M.O.P.No.155 of 2019 pending on the file of the Subordinate Court, Coimbatore and transfer the same to the file of the Subordinate Court, Avinashi to be tried along with H.M.O.P.No.17 of 2019.

For Petitioner : Mr.B.R.Shankaralingam

For Respondent : No Appearance

O R D E R

Heard both sides.

2. The petitioner herein, who is the husband of the respondent has filed a petition in H.M.O.P.No.155 of 2019 under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights and for withdrawing the same and transfer the said petition to the Sub-Court, Avinashi wherein the respondent/wife has filed H.M.O.P.No.17 of 2019 for divorce which is pending.

3. On perusal of the documents, it is seen that in a petition filed by the wife for divorce, she has filed proof affidavit. The petitioner herein/husband who has filed this Tr.C.M.P.No.753 of 2019 has stated that he got married to the respondent herein/wife on 05.03.2018 as per Hindu rites and started living together as husband and wife at his residence at Elachipalayam, Coimbatore District from the date of their marriage. Till date, no children are born and all of a sudden, the respondent/wife left the matrimonial house on 13.07.2018 and started living with her parents. The petitioner herein submits that the respondent/wife, for no reason, has filed the petition

for divorce against the petitioner on the ground of cruelty in H.M.O.P.No.17 of 2019. As he had no intention to lead a separate life from the respondent/wife, he filed a petition for restitution of conjugal rights in H.M.O.P.No.155 of 2018 before the II Additional Subordinate Judge, Coimbatore and the same is pending. In the petition filed by the respondent/wife, the petitioner herein has filed a counter statement and the respondent/wife filed her proof affidavit in the divorce petition. The petitioner/husband has an intention to live with her wife and he seeks withdrawing the said petition filed before the Sub-Court, Coimbatore and also transfer the same to the Sub-Court, Avinashi, to be tried along with H.M.O.P.No.17 of 2019 in order to avoid any conflicting decision being rendered by the Judges in two different Courts.

4. Private notice was served on the respondent on 03.10.2019 and Court notice is awaited.

5. Even though service of Court notice is awaited, this Court is of the view that no prejudice will be caused to the respondent/wife, since the petition which is pending before the Sub-Court, Coimbatore, will be transferred to the Sub-Court, Avinashi and the same to be tried along with H.M.O.P.No.17 of 2019 filed by the respondent/wife for divorce.

6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. No costs.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

ssn

To

1.The Subordinate Court, Coimbatore.

2.The Subordinate Court, Avinashi.

+1cc to Mr.B.R.Shankaralingam, Advocate SR.88317

Tr.C.M.P.No.753 of 2019

RR(CO)
CB(27/11/2019)