



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.873 of 2019  
and C.M.P.No.24010 of 2019

Pachiyappan

... Petitioner

Vs.

Tulasimani

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw F.C.M.O.P.No.34 of 2019 on the file of the Sub Court, Dharmapuri and transfer the same to the file of the Family Court, Dharmapuri to be tried along with F.C.H.M.O.P.No.61 of 2018.

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.R.Prabakar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer F.C.H.O.P.No.34 of 2019 on the file of the Sub Court, Dharmapuri to the Family Court, Dharmapuri to be tried along with F.C.H.M.O.P.No.61 of 2018.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 06.02.2009. Out of their wedlock they were blessed with two children. Due to family situation the petitioner/husband was working at Tirupur and every week end he used to come to his matrimonial house and see his wife and children. The respondent/wife suspected the petitioner's character and informed her brother who was working along with the petitioner/husband and the brother of the respondent scolded the petitioner. Thereafter the respondent/wife arranged a job for her in the petitioner's working place and later she quit the job. On 13.12.2013 the respondent/wife got a job in the Child Welfare Department, Dharmapuri and both the petitioner and the respondent were living peacefully but after one year due to the respondent's parents wrong advice she quarrelled with the petitioner and went to the parents house. On 09.01.2018 the respondent/wife sent a legal notice to the petitioner and filed a divorce petition in F.C.H.M.O.P.No.61 of 2018 before the



Family Court, Dharmapuri. Thereafter the petitioner/husband filed a petition for restitution in F.C.H.M.O.P.No.34 of 2019 before the Sub Court, Dharmapuri and the same is pending. Now the petitioner seeks transfer of the F.C.H.M.O.P.No.34 of 2019 on the file of the Sub Court, Dharmapuri filed by him to the Family Court, Dharmapuri to be tried along with F.C.H.M.O.P.No.61 of 2019. He further submitted that the petition in F.C.H.M.O.P.No.61 of 2018 on the file of the Family Court, Dharmapuri is posted for respondent's side evidence and the Family Court is insisting the petitioner to proceed the case. Unless the petition is not transferred to the Family Court, Dharmapuri the petitioner will be put to great hardship.

3. The learned counsel for the respondent submitted that the petitioner/husband was having illicit affair with one lady and he never took care of the respondent/wife and the children, hence she filed a petition for divorce in F.C.H.M.O.P.No.61 of 2018 before the Family Court, Dharmapuri.

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

5. Taking into consideration the submission made by the learned counsel for the petitioner and the consolidation of proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Hence, this Court is of the opinion that it is appropriate to withdraw and transfer F.C.H.M.O.P.No.34 of 2019 from the Sub Court, Dharmapuri to Family Court, Dharmapuri and to be tried along with F.C.H.M.O.P.No.61 of 2019 and the entire case papers are to be transmitted within four weeks from the date of receipt of a copy of this order.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar



3

To

WEB COPY

1. The Subordinate Judge, Dharmapuri.

2. The Judge, Family Court, Dharmapuri.

+1 cc to M/s.N.Chinnaraj, Advocate Sr.No. 97922

+1 cc to M/s.R.Prabakar, Advocate Sr.No. 98653

AKM/08.01.2020/3P-5C /

TR CMP.No.873 of 2019