



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

TR.C.M.P.No.911 of 2019
and C.M.P.No.24853 of 2019

M.Radha

... Petitioner/Petitioner

-vs-

T.G.K.Sachidanandam @ Ashok Kumar ... Respondent/Respondent

PRAYER: Petition is filed under Section 24 of Code of Civil Procedure to withdraw H.M.O.P.No.206 of 2013, pending on the file of Sub Judge, Tambaram and transfer the same to V Additional Family Judge, Chennai to be filed along with H.M.O.P.No.1100 of 2015.

For Petitioner : Mr.M.Sriram

For Respondent : Mr.G.Jehanathan

O R D E R

The present petition has been filed to transfer the case in H.M.O.P.No.206 of 2013, pending on the file of Sub Judge, Tambaram to the file of V Additional Family Judge, Chennai, so as to be tried along with H.M.O.P.No.1100 of 2015.

2. It is the case of the petitioner that H.M.O.P.No.206 of 2013 has been filed by the husband / respondent herein for divorce before the Subordinate Court, Tambaram, whereas H.M.O.P.No.1100 of 2015 has been filed by her before the V Additional Family Court, Chennai, for restitution of conjugal rights. It is stated by the petitioner that her marriage with the respondent took place on 12.12.2010 and the divorce petition filed by the husband was initially decreed exparte and was subsequently, set aside on 12.11.2018. It is further stated by the petitioner that she is working as Staff Nurse in Rajiv Gandhi Government Hospital, Chennai and the respondent is an Assistant Headmaster in Guruvidyalaya School, Triplicane.



2.1. It is further stated by the petitioner that both the petitioner and the respondent are residing within the jurisdiction of Family Court, Chennai; that the trial is yet to commence in the divorce petition filed by her husband, whereas the entire trial was concluded in H.M.O.P.No.1100 of 2015 filed by her and therefore, no prejudice would be caused to the respondent in case of transfer of the case in H.M.O.P.No.206 of 2013 from Tambaram Court to Chennai.

3. On the contrary, the respondent has contended that the filing of a petition in H.M.O.P.No.1100 of 2015 by the petitioner is only an afterthought, as the same has been filed after a lapse of almost two years of the divorce petition filed by the respondent. Though the respondent is working in Triplicane, he has a permanent residence at Palavakkam and therefore, he had instituted the divorce petition before the Subordinate Court, Tambaram. It is further contended that the intention of the petitioner is to drag on the proceedings in the divorce petition and to make the respondent to run from pillar to post, by filing cases against him in a different Court. Hence, it is prayed that the present petition has no legs to stand and is liable to be dismissed.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is seen that the respondent / husband has filed a petition for divorce before the Subordinate Court, Tambaram and the petitioner / wife has filed a petition for restitution of conjugal rights on the file of the V Additional Family Court, Chennai. Admittedly, both are working in Chennai and since the wife has filed a petition before the V Additional Family Court, Chennai, both the parties have to necessarily appear in-person before the Family Court, Chennai. Therefore, in the considered opinion of this Court, no prejudice is going to cause to the respondent, if the case in H.M.O.P.No.206 of 2013 pending before the Sub Judge, Tambaram is transferred and tried along with H.M.O.P.No.1100 of 2015 before V Additional Family Court, Chennai.

6. In the result, the Transfer Civil Miscellaneous Petition is allowed, with a direction to the learned Subordinate Judge, Tambaram to transfer the case in H.M.O.P.No.206 of 2013 to the file of the V Additional Family Judge, Chennai, within a period



of two weeks from the date of receipt of a copy of this order. On such transfer, the Transferee Court, namely, the V Additional Family Judge, Chennai is directed to take up the case in H.M.O.P.No.206 of 2013 along with H.M.O.P.No.1100 of 2015 and proceed with the same, without adjourning the matter beyond 10 working days at any point of time and bring the issues in both matters to a logical end as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

1.The Subordinate Judge,
Tambaram.

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

+2cc to Mr.M.Sriram, Advocate Sr.103190

TR.C.M.P.No.911 of 2019

mp[co]
srg 21/01/2020