

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17/12/2019

C O R A M:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

TR.C.M.P.NO.987 OF 2019

AND

C.M.P.NO.26408 OF 2019

R.Rajendiran

... Petitioner

Vs.

Rajeswari

.... Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P. No.567 of 2019 and M.C. No.240/2013 from the file of IV Additional Family Court, Chennai and transfer the same to the file of Sub Court, Tiruvannamalai.

Petitioner : Mr.P.S.Kothandam

Respondent : A.D.Janarthanan

ORDER

It is represented by both the parties that, with the consent of both the petitioner and the respondent, they are representing the parties before the Family Court, Chennai.

2. It is represented by the learned counsel for the petitioner that the petitioner is suffering from eye defect for which surgery has been fixed. According to him, the petitioner is suffering from glaucoma and a surgery is fixed on 23rd of this month.

3. It is represented by the respondent that, this court, in CrI.R.C. Nos.637 & 655 of 2019 and CrI.M.P. No.8899 of 2019 has passed an order on 27.9.2019 setting aside the ex-parte order passed by the trial court and remitting the matter to the trial court, for conducting fresh enquiry. This court has also directed the IV Additional Family Court, Chennai, to accord priority, complete the enquiry and pass orders in M.C. No.240/2013, within a period of four months from that date.

4. It is represented by the learned counsel for the petitioner that the marriage between the petitioner and the respondent took place at Chennai. But, however the petitioner is residing at Tiruvannamalai and the respondent is residing at Red Hills, Chennai-600 052. It has been pointed that, even though this court has granted four months time, not even a proof affidavit has been filed. He further represented that on account of illness, he will not be in a position to appear before the Family Court, Chennai, whereas in the Sub Court, Tiruvannamalai lawyers can represent.

5. Admittedly, in the present case on hand, both the parties are represented by lawyers by consent and no steps have been taken by the petitioner to file proof affidavit even though time has been granted by this court in Crl.R.C. Nos.637 & 655 of 2019 and Crl.M.P. No.8899 of 2019, which expires on 27.1.2020. Since in the Family Court, the parties are going to be represented by lawyers and that if any one of the matters is transferred from V Additional Family Court, Chennai to IV Additional Family Court, Chennai, there is no need to withdraw H.M.O.P. No.567 of 2019 and M.C. No.240/2013 pending on the file of IV Additional Family Court and transfer the same to Sub Court, Tiruvannamalai District. This court, taking note of the health condition of the petitioner, observes that, it is suffice for the petitioner to appear for his cross examination and if so required to be present when the evidence of the wife is taken before the court. As the parties are going to be represented by the lawyers, the court below is expected to take note of this and also the health condition of the petitioner herein and to proceed in accordance with law and try to complete the matter within the time stipulated by this court in Crl.R.C. Nos.637 & 655 of 2019 and Crl.M.P. No.8899 of 2019.

6. With the above observation, the transfer civil miscellaneous petition, is disposed of. However, there shall be no order as to cost. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

Asr

To

- 1) The IV Additional Family Court, Chennai
- 2) The Subordinate Court, Tiruvannamalai

+1cc to Mr.P.S.Kothandam, Advocate, S.R.No.104785
+1cc to Mr.A.D.Janarthanan, Advocate, S.R.No.104759

Tr.C.M.P. No.987 of 2019
and C.M.P. No.26408 of 2019

VSNI (CO)
CS/31/01/2020



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