

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 03.01.2019

JUDGMENT PRONOUNCED ON: 22.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Tr.C.M.P.Nos. 729 of 2018 and 889 of 2018
and
C.M.P.Nos.17856 of 2018 and 21936 of 2018

G.Arasakumar ..Petitioner in Tr.CMP.No.729 of 2018

K.K.Pooja ..Petitioner in Tr.CMP.No.889 of 2018

Vs

K.K.Pooja ..Respondent in Tr.CMP.No.729 of 2018

G.Arasakumar ..Respondent in Tr.CMP.No.889 of 2018

Prayer in Tr.C.M.P.No.729 of 2018: Transfer Civil Miscellaneous Petition filed under Section 24 (1) (b) (ii) of the Code of Civil Procedure to withdraw H.M.O.P.No.93 of 2018 from the file of the Subordinate Court, Gobichettipalayam and to transfer the same to the file of the Subordinate Court, Kangayam, for joint trial with H.M.O.P.No.88 of 2018.

Prayer in Tr. C.M.P. No. 889 of 2018 : Transfer Civil Miscellaneous Petition filed under Section 24 (1) (b) (ii) of Code of Civil Procedure to withdraw the H.M.O.P.No.88 of 2018 from the file of the Subordinate Court, Kangayam, and to transfer the same to the file of the Subordinate Court, Gobichettipalayam, for joint trial with H.M.O.P.No.93 of 2018.

For Petitioners : Mr.N.Manokaran in Tr.CMP.No.729 of 2018
: Mr.D.Gopal in Tr.CMP.No.889 of 2018

For Respondents : Mr.D.Gopal in Tr.CMP.No.729 of 2018
: Mr.N.Manokaran in Tr.CMP.No.889 of 2018

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner under Section 24 of the Code of Civil

Procedure to withdraw H.M.O.P.No.93 of 2018 from the file of the Subordinate Court, Gobichettipalayam and to transfer the same to the file of the Subordinate Court, Kangayam, to try along with the H.M.O.P.No.88 of 2018.

2. This Transfer Civil Miscellaneous Petition has been filed by the petitioner under Section 24 of Code of Civil Procedure to withdraw the H.M.O.P.No.88 of 2018 from the file of the Subordinate Court, Kangayam, and to transfer the same to the file of the Subordinate Court, Gobichettipalayam, to try along with the H.M.O.P.No.93 of 2018.

3. The petitioner in Tr.C.M.P.No.729 of 2018 and the Petitioner in Tr.C.M.P.No.889 of 2018 are the husband and wife respectively. The marriage between the petitioner and the respondent was held on 26.05.2016 at Sri Karthikeyan Mahal, Gobichettipalayam, as per the Hindu rites and Customs. Since, the wife is doing her research programme after the completion of her Post Graduation at VIT College, Vellore. Both the husband and wife were lived together at Vellore for a period of one week. Subsequently, as per the request made by his wife, the husband shifted his residence to Coimbatore. Under the circumstances, the wife was having a habit of avoiding the matrimonial relationship by saying some lame excuses. Resultantly, the husband issued a legal notice on 06.12.2017 and the same was suitably replied by the wife on 11.12.2017.

4. Thereafter, the husband filed the petition against the wife under Section 13(1)(A) of Hindu Marriage Act, 1955, for the relief of Divorce. As of now, the said application has been pending with the Subordinate Court, Kangayam, in H.M.O.P.No.88 of 2018. In the mean time, the wife filed an another one petition against the husband in H.M.O.P.No.93 of 2018 for the relief of Restitution of Conjugal Rights. The said petition has been pending with the Subordinate Court, Gobichettipalayam. In such circumstances, the husband and the wife have approached this Court for the relief stated in the paragraph No.1 and 2 of this order.

5. The learned counsel appearing for the husband would contend that the wife's father is a practicing Advocate at Gobichettipalayam. It is further submitted that, since both the petitions have been filed for the dispute arising out of their matrimonial life, joint trial is necessary in order to avoid the conflicting decisions.

6. The learned counsel appearing for the wife has contended that the distance between Gobichettipalayam and Kangayam is about 150 Kms. Further, the wife has to complete her studies in Vellore

7. Now, considering the submissions on either side, as per the Judgments of the Honourable Apex Court reported in 2005 11 SCC 535 [Preeti Sharma Vs. Manjit Sharma] and 2004 13 SCC 411 [Teen Chhabra Vs. Manish Shhabra], the convenient of the wife must be taken into account for disposing these type of Transfer Civil Miscellaneous Petitions. However, in view of the fact that the father of the wife is a practicing advocate in Gobichettipalayam, it is not appropriate to proceed both the cases in the Subordinate Court, Gobichettipalayam. During the time of an argument, both the counsel consented to transfer the above said case to the place in between Gobichettipalayam and Kangayam. Hence, considering the said submissions on either side counsel, this Court comes to the conclusion that Perundurai is the appropriate place and it is convenient for both the parties for attending the Court proceedings.

8. In the light of the above discussions, the Transfer Civil Miscellaneous Petitions are ordered. The case in H.M.O.P.Nos.93 of 2018 and 88 of 2018 are ordered to be withdrawn from the respective Courts and transfer to the file of the learned Subordinate Judge, Perundurai. The learned Subordinate Judge, Gobichettipalayam and the learned Subordinate Judge, Kangayam, are directed to transmit the case records pertaining to H.M.O.P.Nos.93 of 2018 and 88 of 2018 respectively to the file of the Subordinate Court, Perundurai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge, Perundurai, is directed to dispose of both the cases as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed.

sbn

Sd/-

Assistant Registrar(CS VIII)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

To

- 1.The learned Subordinate Judge,
Subordinate Court,
Gobichettipalayam.
- 2.The learned Subordinate Judge,
Subordinate Court,
Kangayam.

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3.The learned Subordinate Judge,
Subordinate Court,
Perundurai.

+2cc to Mr.D.Gopal, Advocate, S.R.No.4678 & 4679/19

+2cc to Mr.N.Monokaran, Advocate, S.R.No.4889 & 4890/19

Tr.C.M.P.Nos. 729 of 2018 and 889 of 2018
and

C.M.P.Nos.17856 of 2018 and 21936 of 2018

ssd(CO)

KAK(08/03/2019)



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