



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.831 of 2018
and
CMP.No.20533 of 2018
and
TR.CMP.No.46 of 2019
and
CMP.No.1492 of 2019

G.Dinesh Kumar .. Petitioner in TR.CMP.No.831/2018
and respondent in TR.CMP.No.46/2019

vs.

M.Ramya Devi .. Respondent in TR.CMP.No.831/2018 and
petitioner in Tr.CMP.No.46/2019

Transfer Civil Miscellaneous Petition in TR.CMP.No.831/2018 filed under Section 24 of C.P.C. seeking to withdraw the HMOP.No.64 of 2018 on the file of the Principal Sub-Court, Krishnagiri filed by the respondent and to transfer the same to the Sub-Court, Kancheepuram to be tried along with HMOP.No.130 of 2018 filed by the petitioner.

Transfer Civil Miscellaneous Petition in Tr.CMP.No.46/2019 has been filed to withdraw the HMOP.No.130/2018 on the file of the learned Subordinate Judge, Kancheepuram and to transfer the same to the learned Principal Subordinate Judge, Krishnagiri.

For Petitioner in TR.CMP.No.831/2018
and respondent in TR.CMP.No.46/2019 : Ms.Thamizharasi S.

For Respondent in TR.CMP.No.831/2018
and petitioner in Tr.CMP.No.46/2019 : Mr.S.Vinothkumar

COMMON JUDGMENT

These two Transfer Civil Miscellaneous Petitions, one filed by the wife and the another filed by the husband were taken up together for common disposal at the request of the both parties.



2. Transfer Civil Miscellaneous Petition in TR.CMP.No.831/2018 filed under Section 24 of C.P.C. seeking to withdraw the HMOP.No.64 of 2018, filed by the wife seeking restitution of conjugal rights, on the file of the Principal Sub-Court, Krishnagiri and to transfer the same to the Sub-Court, Kancheepuram to be tried along with HMOP.No.130 of 2018 filed by the husband under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 seeking a decree for divorce by dissolving the marriage took place between the parties on 14.12.2011.

3. Transfer Civil Miscellaneous Petition in Tr.CMP.No.46/2019 has been filed by the husband to withdraw the HMOP.No.130/2018 on the file of the learned Subordinate Judge, Kancheepuram and to transfer the same to the learned Principal Subordinate Judge, Krishnagiri.

4. Learned Counsel appearing for the wife would submit that apart from filing HMOP.No.64 of 2018, seeking restitution of conjugal rights, on the file of the Principal Sub-Court, Krishnagiri, the wife has also filed a Maintenance Case in M.C.No.13/2018 on the file of the learned Chief Judicial Magistrate, Krishnagiri. Therefore, in any event, the husband is bound to appear for these two cases in Krishnagiri. Therefore, if the HMOP.NO.130/2018 filed by the husband before the Subordinate Judge, Kancheepuram may be ordered to be withdrawn and transferred to the Principal Sub-Court, Krishnagiri, it would help the wife to avoid waste of travelling expenses, time etc. and that case also be clubbed together with HMOP.No.64/2018 and tried jointly.

5. Opposing the above prayer, the learned Counsel for the husband in support of his prayer in Tr.CMP.No.831/2018 submitted that there is a heavy threat to him from the wife family. Therefore, if the husband is compelled to appear before the court in Krishnagiri, he may not be able to contest the case fairly. Therefore, on the ground of the threat received by the husband, the HMOP.No.64/2018 filed by the wife before the Principal Subordinate Judge, Krishnagiri and the M.C.No.13/2018 seeking maintenance which is also pending on the file of the learned Chief Judicial Magistrate, Krishnagiri as mentioned above may be transferred to the Subordinate Court, Kancheepuram enabling the husband to appear in these cases.

6. But this Court is unable to find any merit on the submission of the learned Counsel for the husband since the petitioner has filed a petition for restitution of conjugal rights in HMOP.No.64/2018 and one another case seeking maintenance in M.C.No.13/2018 under Section 125 of Cr.P.C. on the file of the learned Chief Judicial Magistrate, Krishnagiri



as mentioned above. Therefore, the husband is bound to appear for these two cases in Krishnagiri. Hence, the prayer in the Transfer CMP.No.831/2018 is rejected and the same stands dismissed whereas the Transfer CMP.No.46/2019 stands allowed and the HMOP.No.130/2018 on the file of the learned Subordinate Judge, Kancheepuram is withdrawn and transferred to the file of the learned Principal Subordinate Judge, Krishnagiri to be tried along with HMOP.No.64/2018. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Subordinate Judge,
Krishnagiri.
2. The Subordinate Judge,
Kancheepuram.
3. The Chief Judicial Magistrate,
Krishnagiri.

+2cc to Mr.S.Vinoth Kumar, Advocate, S.R.No. 61618, 61617
+1cc to Mr.S.Thamizharasi, Advocate, S.R.No. 60901

Tr.CMP.Nos.831/2018 and 46/2019

PVS (CO)
GN(22/08/2019)