

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2019

Coram:

The Honourable Mr. Justice R. PONGIAPPAN

Transfer CMP No.894 of 2018
and C.M.P.No.21998 of 2018

Mr.R.Keerthi

Petitioner

Versus

Tmt.K.Mohanalakshmi

Respondent

PRAYER: Transfer Civil Miscellaneous petition has been filed under Section 24 of the Civil Procedure Code to withdraw H.M.O.P.No.601 of 2018 from the file of the Subordinate Court, Tambaram, and to transfer the same to the file of VI Additional Family Court, Chennai.

For Petitioner : Mr.P.V.Selvarajan
for R.Aranganathan

For Respondent : Mr.B.Thirumalai

O R D E R

The petitioner is the respondent in H.M.O.P.No.601 of 2018 now pending on the file of the Subordinate Court, Tambaram. She has filed this application under Section 24 of the Civil Procedure Code for the relief to withdraw the above said H.M.O.P.No.01 of 2018 from the file of the Subordinate Court, Tambaram and to transfer the same to the file of the VI Additional Family Judge, Chennai, for joint trial along with H.M.O.P.No. 2866 of 2018 which was filed by the respondent for the relief of annulling the marriage happened between them.

2. The petitioner is the husband and the respondent is his wife. The marriage between the petitioner and the respondent had happened on 03.03.2014 at AKR SivaKumar Mahal, Pollachi, Coimbatore District. After the marriage, both the petitioner and the respondent set up their Matrimonial home in Anna Nagar, Chitlapakkam, Chennai. After some time, from the date of marriage, due to the difference of opinion arose between the petitioner and the respondent. The respondent left the Matrimonial home and joined with her parents.

3. After leaving from the Matrimonial home by the respondent, the petitioner herein filed an application against the respondent under Section 13 (i) (i-a) of the Hindu Marriage Act, 1955, in which he is seeking the relief of Divorce. Initially, the said petition have been numbered in the Subordinate Court, Pollachi, and subsequently as per the order passed by this Court in Transfer Civil Miscellaneous Petition 834 of 2017, the same was withdrawn from the file of the subordinate Court, Pollachi and transferred to the Family Court, Chennai. As of now, the said case has been pending with VI Additional Family Court, Chennai in H.M.O.P.No.2866 of 2018.

4. After transferring the above said case from the file of Subordinate Court, Pollachi, the respondent herein filed an application against the petitioner for the relief of Restitution of Conjugal Rights. As of now, the said application has been pending with the Subordinate Court, Tambaram, in H.M.O.P.No.601 of 2018. In the said circumstances, the petitioner herein filed this application for the relief stated in paragraph No.1 of this order.

5. The learned counsel who is appearing for the petitioner would contend that, since both the petition mentioned cases are pertaining to the matrimonial issue of the petitioner and the respondent, if the said cases are tried in two different Courts, there will be a chance for coming out the conflicting decisions.

6. The learned counsel appearing for the respondent would contend that, as of now the respondent is having a child in the age of three years. Hence, it is very difficult for the respondent in attending the Court proceedings in Subordinate Court, Tambaram, along with her child.

7. It is an admitted fact that both the cases now pending before the Subordinate Court, Tambaram and VI Additional Court, Chennai, are related to the matrimonial issues pertaining to the petitioner and the respondent. Hence, if the cases are tried separately, there will be a chance for coming out the conflicting decisions. More over, the distance between the Tambaram and Chennai is about 40 Kms. Hence, it is not difficult either to the petitioner and to the respondent in attending the Court proceedings at Chennai. Therefore, considering the facts and circumstances of the the case, I am of the opinion that the prayer sought by the petitioner is having a bonofied reasons.

8. Accordingly, in the light of the above discussions this petition is allowed and the case in H.M.O.P.No.601 of 2018 is ordered to be withdrawn from the file of Subordinate Court, Tambaram, and to transfer the same to the file of VI Additional Family Court, Chennai. The learned Subordinate Judge, Tambaram,

is directed to transmit all the records pertaining to H.M.O.P.No.601 of 2018 to VI Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Judge, VI Additional Family Court, Chennai, is directed to dispose of the case i.e., H.M.O.P.No.601 of 2018 along with H.M.O.P.No.2866 of 2018 as expeditiously as possible. No costs. Consequently, connected Civil Miscellaneous Petition is closed. It is left open to the Presiding Officer of the VI Additional Family Court, Chennai, to decide for joint trial or simultaneous trial.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Subordinate Court,
Tambaram
2. VI Additional Family Court,
Chennai.
3. The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to M/s.R.Aranganathan, Advocate, S.R.No.6450

+1 cc to M/s.B.A.Dhanasekar, Advocate, S.R.No.6552

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VSN-II (CO)
SSM(05/03/2019)

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