



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.916 of 2018 and
CMP.No.22523 of 2018

Vijayababu

.. Petitioner

vs.

K.Prabhavathi

.. Respondent

Civil Miscellaneous Appeal filed under Section 24 of C.P.C. Seeking to withdraw and transfer the HMOP.No.60 of 2018 from the file of the learned Subordinate Judge, Chidambaram, Cuddalore District to the file of the learned Subordinate Judge, Ranipet, Vellore District or at least to any of the Subordinate Court at Thiruvannamalai.

For Petitioner : Mr.J.T.Rajasuriya

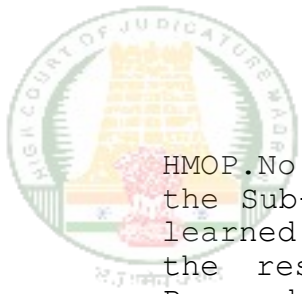
For respondent : Ms.B.Raji
for M/s.V.Bhiman

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JUDGMENT

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw and transfer the HMOP.No.60 of 2018 from the file of the learned Subordinate Judge, Chidambaram, Cuddalore District to the file of the learned Subordinate Judge, Ranipet, Vellore District or at least to any of the Subordinate Court at Thiruvannamalai.

2. Learned Counsel appearing for the petitioner submitted that after the marriage took place between the petitioner and the respondent on 09.02.2017 at Rani Mahal, Kattumannarkoil Circle, Udaiyarkudi, the petitioner has resigned his job abroad. The learned Counsel further submitted that as the respondent-wife was having a habit of going to her parents house often without even informing the petitioner and his family members for which there were frequent quarrels. There was a threat also posed against the petitioner from the respondent and her family members and panchayat was also held by the family members from both sides. Although there was an endeavour to calm down the situation which was beyond their control, the petitioner has filed HMOP.No.64.2018 on the file of the Sub-Court, Ranipet seeking divorce. Thereafter, the respondent wife has filed



HMOP.No.60/2018 seeking restitution of conjugal rights before the Sub-Court, Chidambaram. When the matter was taken up by the learned Subordinate Judge, Chidambaram, the learned Counsel for the respondent wife has also represented the case and the Proceeding Officer proceeded with the matter ex-parte and set the petitioner herein-husband as ex-parte. Therefore, there is also further apprehension on the part of the petitioner. Hence the present Transfer CMP has to be allowed.

3. Heard the learned Counsel appearing for the respondent wife.

4. But this Court is unable to find any merit on the prayer made by the petitioner herein because no basis or justification has been made for such transfer. Further, when the Presiding Officer has proceeded with the matter ex-parte, an application alone has been filed by the petitioner herein for setting aside the ex-parte order before the said Court and before the ex-parte order is set aside, the Transfer Civil Miscellaneous Petition cannot be maintainable because there is no matter pending for transfer. Hence, this Transfer Civil Miscellaneous Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Chidambaram, Cuddalore District.

2.The Subordinate Judge,
Ranipet, Vellore.

+1cc to Mr.V.Bhiman, Advocate, S.R.No.53895

Tr.CMP.No.916 of 2018

SPD(CO)

RRS(01/08/2019)