



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Date : 23.10.2019
CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

Tr.C.M.P. (MD)No.323 of 2019
and
C.M.P. (MD)No.7602 of 2019

K.Sivaraman .. Petitioner/ Respondent
Vs.

Murugeswari .. Respondent/ Petitioner

Prayer : Petition is filed under Section 24 of Civil Procedure Code, to withdraw and transfer the entire proceedings of H.M.O.P.No.73 of 2019 pending before the Sub Court, Sivakasi to the Family Court, Madurai in which H.M.O.P.No.707 of 2019 is pending or any other Court at Madurai, Madurai Distirct.

For Petitioner : Mr.K.Sureshkumar
For Respondent : Mr.P.T.Ramesh Raja

ORDER

The above Transfer Civil Miscellaneous Petition has been filed seeking to withdraw H.M.O.P.No.73 of 2019 filed by the respondent, for restitution of conjugal rights, on the file of the Subordinate Court, Sivakasi, to the file of the Family Court, Madurai, to be tried along with H.M.O.P.No.707 of 2019, which is pending there.

2.The ground on which the transfer is sought for is that the petitioner is suffering mental and physical illness, as he has to travel to and fro to attend the hearing on H.M.O.P.No.707 of 2019 before the Family Court, Madurai. That apart, he has to attend hearing before the learned Judicial Magistrate, Sivakasi in M.C.No.1 of 2019 for maintenance and therefore, in his interest, the matter is to be transferred to the Family Court, Madurai.

3.The learned counsel for the petitioner would submit that in earlier occasion, the petition for divorce was filed by him at Chennai in H.M.O.P.No.4428 of 2018 and the wife has filed a petition for transfer in Tr.C.M.P.(MD)NO.106 of 2019 to transfer that petition to the Family Court, Sivakasi, where she was residing. However, since the respondent had made submission that he had faced physical threat, this Court has passed an order, directing the matter to be transferred to the Family Court, Madurai.



4.It is seen that the wife thereafter, has filed a petition for restitution of conjugal rights in H.M.O.P.No.73 of 2019 and since the respondent husband is not maintaining her, she has also instituted the maintenance case in M.C.No.1 of 2019 before the learned Judicial Magistrate, Sivakasi. The Family Court, Madurai does not have the inherent jurisdiction to take on the petition for restitution of conjugal rights. The marriage was not performed within the jurisdiction of Madurai nor the petitioner and the respondent last resided together at Madurai. The respondent wife is also not residing at Madurai. There is no statement made by the petitioner that apprehends that and there is some kind of threat from the respondent or from her family members.

5.Considering the above stated facts, this Court does not find any reasonable cause for transferring the petition from the Sub Court, Sivakasi to the file of Family Court, Madurai primarily on the ground that the Family Court, Madurai lacks inherent jurisdiction.

6.With the above observation, this transfer civil miscellaneous petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Sub Judge, Sivakasi.

+1 CC to Mr.P.T.RAMESH RAJA, Advocate (SR-94091[F] dated 24/10/2019)

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