



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2019

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

Tr.C.M.P (MD)No.108 of 2018

and C.M.P. (MD) No.2378 of 2018

Sathasivam

... Petitioner

Vs.

Krishnaveni

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to pass an order to withdraw the F.C.O.P.No.447 of 2017 on the file of the Famil Court, Erode and transfer the same to the file of the Subordinate Judge, Karur to be tried along with H.M.O.P.No.261 of 2017.

For Petitioner : Mr.N.Shanmugaselvam

For Respondent : No appearance

J U D G M E N T

This Transfer Civil Miscellaneous Petition is filed at the behest of the husband. The respondent/wife, though served, has not entered appearance either in person or through counsel. This petition is filed seeking transfer of F.C.O.P.No.447 of 2017 pending on the file of the Family Court, Erode to the Subordinate Court, at Karur where H.M.O.P.No.261 of 2017 filed by the petitioner/husband for divorce is pending.

2. Heard the learned counsel appearing on behalf of the petitioner.

3. In the affidavit filed in support of this petition, the petitioner/ husband would contend that the respondent was reluctant to live with him and in fact she deserted him leaving behind her two daughters, who were born on 19.03.2011 and 05.09.2013 respectively. The petitioner has stated that the respondent/wife had left matrimonial home on 08.05.2015 and had not returned to her matrimonial home which constrained him to file a petition for divorce in H.M.O.P.No.261 of 2017 on the file of the Subordinate Judge, Karur. As a counter blast, the respondent/wife has filed F.Co.P.No.447 of 2017 on the file of the Family Court, Erode, for restitution of conjugal rights.



4. The petitioner would further submit that he is working on daily wages basis. Apart from that, he has to take care of the two daughters and he is also burdened to look after his aged parents. Therefore, it is very difficult for him to travel to Erode for every hearing since F.C.O.P.No.447 of 2017 is pending before the Family Court, at Erode, which requires the presence of the parties at every hearing. On the other hand, the petition filed by the petitioner/husband is before the Subordinate Court, Karur, where the presence of the parties for every hearing is not mandatory.

5. Taking note of the above factors, this Court is inclined to issue the following direction:

i) The learned Judge, Family Court, Erode, is directed to transmit the entire records in F.C.O.P.No.447 of 2017 to the file of the Subordinate Court, Karur, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Subordinate Judge, Karur, after obtaining the records on transfer, is directed to try F.C.O.P.No.447 of 2017 along with H.M.O.P.No.261 of 2017 and dispose of both petitions as expeditiously as possible in accordance with law.

6. In the result, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

CM

To

1.The Judge, Family Court, Erode.

2.The Subordinate Judge, Karur.

+1 CC to M/s.N.SHANMUGA SELVAM, Advocate (SR-92009[F] dated 15/10/2019)

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JM/25.10.2019/2P/4C