

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.87 of 2020

K.Ashok Kumar

.. Petitioner

-vs-

C.Malini

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the G.W.O.P.No.29 of 2017 pending on the file of the learned Principal District Judge at Vellore to the Hon'ble Sub Court at Tambaram.

For Petitioner :: Mr.Jerry V.V.Sundar

For Respondent :: No appearance

ORDER

Heard learned counsel for the petitioner through video conferencing due to the Covid-19 pandemic.

2. Mr.K.Ashok Kumar has come to this Court seeking an order to withdraw the G.W.O.P.No.29 of 2017 from the file of the Principal District Court, Vellore and transfer the same to the file of the Sub Court, Tambaram. Learned counsel appearing for the petitioner submitted that after the marriage was solemnized with the respondent on 22.5.2015 in accordance with the Hindu rites and customs at the respondent's home at No.347, Kilanoor Village, Pungampattunadu Post, Jawadu Hills, Tirupattur Taluk, Vellore District in the presence of the elders belonging to both families, they were living happily. Learned counsel for the petitioner also stated that this is the second marriage with the respondent. Earlier he married one Mrs.J.Radhika, D/o G.Jaganathan and that marriage was dissolved by a decree dated 26.2.2013 passed by the Sub Court, Tambaram in H.M.O.P.No.352 of 2010. This was properly informed to the respondent and the entire marriage expenses for the second marriage was borne by the petitioner. Out of the wedlock, they were also blessed with a son, namely, A.Harresh on 11.5.2016. Since trivial matrimonial

problems have crept in, the respondent went to her parental home at Kilanoor village, Tirupattur Taluk. Thereafter, she became a police constable. In the meanwhile, the petitioner filed the H.M.O.P.No.291 of 2017 for restitution of conjugal rights before the Sub Court, Tambaram. As the respondent also did not contest the case, an ex parte decree was passed directing the respondent to join the matrimonial home by an order dated 2.4.2018. But there has been no response. Now she has been working in Tiruvallur. The petitioner also filed G.W.O.P.No.29 of 2017 before the Principal District Court, Vellore seeking custody of the child. Later on the petitioner also filed the H.M.O.P.No.778 of 2019 before the Sub Court, Tambaram seeking divorce, as the petitioner has been working in Customs House, Chennai. Hence, he has sought for transfer of the G.W.O.P.No.29 of 2017 from the file of the Principal District Court, Vellore to the file of the Sub Court, Tambaram to avoid inconvenience to both the parties. Learned counsel for the petitioner also stated that the respondent has refused to receive the Court notice as well as the private notice.

3. The Registry record shows that the notice sent through Court as well as privately to the respondent has been refused by the respondent. It is not known how the respondent, who is working as Police Constable, can refuse to receive the notice sent by the Court. That shows that she is not prepared to accept the decree dated 2.4.2018 passed by the Sub Court, Tambaram for restitution of conjugal rights with the petitioner. Therefore, taking note of the fact that the petitioner is working in the Customs House, Chennai and the respondent is also working as a Police Constable in Tiruvallur, withdrawing the G.W.O.P.No.29 of 2017 from the file of the Principal District Court, Vellore and transferring the same to the file of the Sub Court, Tambaram where the H.M.O.P.No.778 of 2019 filed by the petitioner for divorce is pending, would only help both the parties. Hence, the transfer civil miscellaneous petition stands allowed and the G.W.O.P.No.29 of 2017 is withdrawn from the file of the Principal District Court, Vellore and transferred to the file of the Sub Court, Tambaram, to be tried along with the H.M.O.P.No.778 of 2019 filed by the petitioner for divorce. The learned Subordinate Judge, Tambaram shall take up both the matters together and give a disposal on merit. Consequently, C.M.P.No.3148 of 2020 is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge
Vellore
2. The Subordinate Judge
Tambaram

Tr.C.M.P.No.87 of 2020

CA (CO)
CB (23/09/2020)