

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.462 of 2020 and
CMP.No.11082/2020

R.Jeganathan .. Petitioner
-vs-
Rajathi .. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the HMOP.No.78 of 2020 on the file of the Sub-Court, Arakkonam and to transfer the same to the Family Court, Vellore.

For Petitioner :: Ms.Rajeswari Karthikeyan

For Respondent :: ...

ORDER

The matter was taken up through video conferencing due to the Covid-19 pandemic.

2. The petitioner has filed this Transfer Civil Miscellaneous Petition seeking to withdraw and transfer the HMOP.No.78 of 2020 on the file of the Subordinate Judge, Arakkonam and to transfer the same to the Family Court, Vellore.

3. Learned Counsel appearing for the petitioner submitted that the petitioner-husband after finding it very difficult to get along with the respondent-wife filed petition seeking divorce before the Family Court, Dharmapuri in HMOP.No.154/2019. However, the respondent-wife filed a petition seeking maintenance in M.C.No.3/2012 before the learned Judicial Magistrate, Arakkonam. Initially, the petitioner appeared for the proceedings in Arakkonam. But the respondent joining hands with her maternal uncle Srinivasan and other relatives, created a fear in the mind of the petitioner that he would face the consequences, if he entered

Arakkonam area, as a result, he was unable to appear for the Maintenance Case in M.C.No.3/2012 before the learned Judicial Magistrate, Arakkonam and consequently, the M.C.No.3/2012 was proceeded ex-parte on 22.06.2015 and the learned Judicial Magistrate, Arakkonam passed an order directing the petitioner husband to pay maintenance at Rs.10,000/- p.m. to his wife and son. Now the petitioner had to pay monthly maintenance to his wife and son because he has not preferred any appeal and he has been paying the monthly maintenance as directed by the learned Judicial Magistrate, Arakkonam. Thereafter, though lot of mediation talks were initiated from the relatives and friends on his side, the respondent refused to join the matrimonial home. The respondent wife has also filed Tr.CMP.No.38/2020 before this Court seeking transfer of the F.C.H.M.O.P.No.154/2019 from the file of the Family Court, Dharmapuri to the file of the Subordinate Judge, Arakkonam, Vellore District. This Court by order dated 05.08.2020, allowed the said Transfer CMP on the ground that the distance between Arakkonam and Dharmapuri is about 250 kms and it would be difficult for the respondent herein-wife to undertake a long journey with her son. Now the matter has been transferred to the file of the learned Subordinate Judge, Arakkonam and renumbered as HMOP.No.78/2020. Since the petitioner is facing life threat from his wife and her maternal uncle Srinivasan, he is unable to pursue the matter before the learned Subordinate Judge, Arakkonam. Therefore, in the interest of both parties, if the matter may be transferred to the Family Court, Vellore, no prejudice would be caused to anyone, it is pleaded.

4. This Court finds no valid reason for the petitioner husband to come to this Court. Firstly, when his wife Rajathi came to this Court with Tr.CMP.No.38/2020, notice was issued to him. After service of the court notice, the petitioner who claims to be a Head Constable working in Southern Railway, has not appeared before this Court. That apart, he has refused to receive the private notice. I also wonder that being a Government Servant, more particularly, being a Head Constable in Railway Police, how the petitioner can ignore the court summons and refuse to appear before this Court. Therefore, this Court taking note of the valid grounds raised by the respondent wife herein that she is having a son aged about 8 years with her and also the fact that the distance between Arakkonam and Dharmapuri is about 250 kms. besides the fact that in spite of the summons were served upon him, he has failed to appear before this Court, allowed the Tr.CMP.No.38/2020 as prayed for by the respondent wife. That apart, it is also pertinent to note that in paragraph 4 of the affidavit filed in support of the present Transfer CMP petition, it has been mentioned that M.C.No.3/2012 was filed by the respondent on the file of the learned Judicial Magistrate, Arakkonam seeking maintenance and citing a reason

that he had similar life threat, he did not appear for the proceedings before the learned Judicial Magistrate, Arakkonam. But, it is not known how he can plead that he could not appear before the court concerned, instead, he could have engaged a Counsel to prosecute the matter. It also shows that the petitioner is having the habit of not appearing before any court. Therefore, an ex-parte order was passed on 22.06.2015 by the learned Judicial Magistrate, Arakkonam, directing the petitioner to pay Rs.10,000/- p.m. towards maintenance to the respondent wife and her son. Therefore, it shows the conduct of the petitioner.

5. Therefore, when once this Court has considered the grounds and the reasons and already passed an order in Tr.CMP.No.38/2020 transferring FCHMOP.No.154/2019 on the file of the Family Court, Dharmapuri to the file of the Subordinate Judge, Arakkonam and renumbered as HMOP.No.78/2020, this Court is not able to find any justification on the argument advanced by the learned Counsel for the petitioner-husband for retransferring the same to the Family Court, Vellore on the ground that there was a life threat to the petitioner, serving as a Head Constable who knows very well how to deal with this life threat problem, if there is any. Therefore, he is not entitled to approach this Court. Hence, I find no merit in the present Transfer CMP.

6. At this stage, the learned Counsel for the petitioner requested that in view of the Covid 19 pandemic situation in order to maintain social distancing and avoid crowding in the Court which is the only remedial steps against the spreading the Corona virus, the petitioner may be given the benefit of appearing through Video Conferencing before the learned Subordinate Judge, Arakkonam. If any such application is filed by the petitioner seeking video conferencing facility, the same shall be considered by the court concerned on merit.

7. With the above observation, the Transfer CMP stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Arakkonam.

2.The Family Court, Vellore.

Tr.C.M.P.No.462 of 2020

RV (CO)
CB(11/11/2020)



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