

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.Nos.702 of 2019 and 3 of 2020
CMP.NO.19970/2019 & 45/2020

Madhankumar .. Petitioner in Tr.CMP No.702/19

Nirmala .. Petitioner in Tr.CMP No.3/20/ Respondent

Versus

Nirmala .. Respondent in Tr.CMP No.702/19

Madhankumar .. Respondent in Tr.CMP No.3/20/ Petitioner

Prayer in Tr.CMP.No.702/19: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.901 of 2019 on the file of the Principal Family Court, Coimbatore, and transfer the same to the file of Sub-Court, Mannargudi.

Prayer in Tr.CMP.No.3/20: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.126 of 2019 from the file of the Subordinate Court, Mannargudi, and transfer the same to the file of the Principal Family Court, Coimbatore, to try along with H.M.O.P.No.901 of 2019 and M.C.No.117 of 2019, which is pending before the Principal Family Court, Coimbatore.

Prayer in Tr.CMP.No.702/19:
For Petitioner/husband : Mr.Babu for Mr.M.Tamizavel
For Respondent/wife : Mr.T.Balaji

Prayer in Tr.CMP.No.126/2019:
For Petitioner : Mr.T.Balaji
For Respondent : Mr.Babu for Mr.M.Tamizavel

COMMON ORDER

In Tr.C.M.P.No.702 of 2019, the petitioner/husband seeks to transfer H.M.O.P.No.901 of 2019 from the file of learned Principal Family Court, Coimbatore, to the file of learned Sub-Court, Mannargudi. The said HMOP was filed by the respondent/wife seeking for divorce on the ground of cruelty.

transfer H.M.O.P.No.126 of 2019 from the file of learned Sub-Court, Mannargudi, to the file of learned Principal Family Court, Coimbatore. The said HMOP was filed by the respondent/husband for restitution of conjugal rights.

3. Learned counsel for the wife submitted that when the wife filed two petitions i.e., H.M.O.P.No.901 of 2019 seeking for divorce on the ground of cruelty and M.C.No.117 of 2019 seeking for maintenance, which are pending before the Principal Family Court, Coimbatore, Tr.C.M.P.No.702 of 2019 filed by the husband seeking to transfer H.M.O.P.No.901 of 2019 alone cannot be maintained. Even if this petition is allowed, then the husband has to attend every hearing in respect of the case filed by the wife in M.C.No.2019 seeking for maintenance, for, the husband did not ask for transfer of maintenance case filed by the wife.

4. Considering the fact that the husband has not sought for transfer of maintenance case filed by the wife pending on the file of Principal Family Court, Coimbatore, Tr.C.M.P.No.702 of 2019 filed by the husband seeking to transfer H.M.O.P.No.901 of 2019 alone cannot be entertained and therefore, the same is dismissed. Consequently, Tr.C.M.P.No.3 of 2020 filed by the wife is allowed. In fine, H.M.O.P.No.126 of 2019 filed by the husband on the file of learned Sub-Court, Mannargudi, seeking for restitution of conjugal rights, is withdrawn and transferred to the file of the learned Principal Family Court, Coimbatore, to be tried along with H.M.O.P.No.901 of 2019 and M.C.No.117 of 2019 filed by the wife. On such transfer, learned Principal Family Court, Coimbatore, is directed to dispose of all these three cases together in the manner known to law as expeditiously as possible. Consequently, connected CMPs are closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS)

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Sub Assistant Registrar

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To

1.The Judge,Subordinate Court, Mannargudi.

2. The Judge, Principal Family Court, Coimbatore.

Tr.C.M.P.Nos.702 of 2019 and 3 of 2020

A.SK(01/10/2020)