

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.901 of 2019

G.R.Chalini

..Petitioner

Versus

K.Anand

..Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.322 of 2019 pending on the file of learned Sub-Court, Poonamallee, and to transfer the same to the file of learned IV Additional Family Court, Chennai, to try along with O.P.No.2520 of 2019.

For Petitioner : Mrs.A.Arulmozhi

For Respondent : Ms.Jeyalakshmi
for M/s.Paul & Paul

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. Mrs.G.R.Chalini/petitioner herein, wife of Mr.K.Anand/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.322 of 2019 from the file of learned Sub-Court, Poonamallee, to the file of learned IV Additional Family Court, Chennai, to try along with O.P.No.2520 of 2019 filed by the wife seeking for divorce. The above said HMOP No.322 of 2019 was filed by the respondent/husband seeking for divorce.

3. It is a peculiar case where both the husband and wife are seeking for divorce and they have filed a separate petition before two different Courts. The respondent/husband is working as Assistant Professor in Jeya College of Physiotherapy, Thiruninravur, Avadi, Chennai.

4. Mrs.A.Arulmozhi, learned counsel for the petitioner/wife argued that although sufficient steps have been taken to sort out the issue, the same has become futile and therefore, now the matter has to be adjudicated by both parties. Since both the husband and wife have filed a separate petition seeking for divorce before two different Courts, the same have to be clubbed

together and heard by one Court so as to avoid conflicting decision and also to avoid wastage of precious time of the Court.

5. Ms.Jeyalakshmi, learned counsel for the respondent/husband, by filing a counter affidavit, opposed for clubbing the matter and submitted that the distance between learned Family Court, Chennai, and Ayyambakkam, which is her permanent address, is 23 kms., whereas from Ayyambakkam to Sub-Court, Poonamallee, it is only 6 kms., and therefore, the case pending before the learned Sub-Court, Poonamallee, need not be transferred to the file of learned IV Additional Family Court, Chennai.

6. This Court is unable to find any merit on the above said submission, for the reason that both parties are not ready for reunion and they have filed a separate petition seeking for divorce before two different Courts. If both matters are not clubbed together, then this would not only lead into wastage of precious time of the Court but also lead into multiplicity of proceedings and conflicting judgments. Therefore, in the interest of both parties, to avoid multiplicity of proceedings, this Court is of the considered view that both matters have to be clubbed together in one Court for joint trial. Accordingly, H.M.O.P.No.322 of 2019 filed by the husband is withdrawn from the file of learned Sub-Court, Poonamallee, consequently, transferred to the file of learned IV Additional Family Court, Chennai, to be tried along with O.P.No.2520 of 2019 filed by the wife, for joint trial. On such transfer, learned IV Additional Family Court, Chennai, shall dispose of both the cases together in the manner known to law as expeditiously as possible. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.24634 of 2019 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Poonamallee.

2.The IV Additional Judge, Family Court, Chennai.

+1 cc to M/s.Paul&Paul,Advocate Sr.No. 28285

Tr.C.M.P.No.901 of 2019

GP (CO)

RV (21/09/2020)