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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Tr.C.M.P. (MD) Nos.58, 74 and 203 of 2020

and C.M.P Nos.1033, 4235 and 1429 of 2020

Karthikeyan ... Petitioner/Applicant in all the petitions

-vs-

R.Usha ...Respondent/Respondent in all the petitions

PRAYER in Tr.C.M.P(MD).No.58 of 2020: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No. (*)159 of 2020 on the file of Family Court, Ariyalur and to transfer to the file of Family Court, Trichirappalli.

PRAYER in Tr.C.M.P(MD).No. 74 of 2020: Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw G.W.O.P.No.31 of (*)2020 on the file of Family Court, Ariyalur and transfer to the Family Court, Trichirappalli.

(*)prayer amended vide court order dated 29.07.2020 made in CMP(MD). 3562 and 3263 of 2020 in TR CMP(MD).58 & 74 of 2020

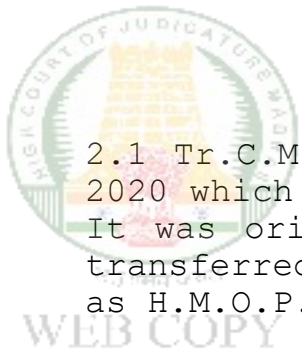
PRAYER in Tr.C.M.P(MD).No.203 of 2020: Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No. (**)98 of 2018 on the file of Family Court, Ariyalur to be heard and tried on the file of the Hon'ble Family Court, Tiruchirappalli for disposal of the same on merits and in accordance with law.

(In all the petitions)

For Petitioners : Mr.M.Jerin Mathew
for Mr.M.Saravanakumar
For Respondent : Mr.P.Arun Jayatram

C O M M O N O R D E R

These three Transfer Civil Miscellaneous Petitions have been filed by one Karthikeyan, who is the husband of the respondent. His status itself now is slightly in controversy but for convenience of narration, this Court considers that he continues to hold the



2.1 Tr.C.M.P.No.58 of 2020 was filed to transfer H.M.O.P.No.159 of 2020 which the husband has filed for restitution of conjugal rights. It was originally filed before the Sub Court, Jeyamkondam and now transferred to the file of the Family Court, Ariyalur and renumbered as H.M.O.P.No.159 of 2020.

2.2. Tr.C.M.P.No.74 of 2020 is also filed by the husband for transferring G.W.O.P.No.31 of 2020 pending before the Family Court, Ariyalur which was filed by the wife.

2.3. Tr.C.M.P(MD)No.203 of 2020 is filed seeking transfer of H.M.O.P.No.98 of 2018 which the wife has filed for dissolution of marriage. This was pending before the Sub Court, Jeyamkondam.

3. The learned counsel for the petitioner submitted that it is an inter-caste marriage between the petitioner and the respondent and ultimately, the communal issue have separated the spouses. He submits that only reason for the petitioner seeking transfer of proceedings from Ariyalur because he apprehends real danger to his person since the communal issue poses some serious threat to his safety.

4.The learned counsel for the wife/respondent submitted that so far as H.M.O.P.No.98 of 2018 which the wife has filed for dissolution of marriage is concerned, the same was decreed ex-parte on 08.02.2019. Thereafter, the husband had filed necessary petition for setting aside the ex-parte decree. During its pendency, the wife has also filed a petition for payment of alimony. The trial court allowed the petition for setting aside the ex-parte decree but subject to the condition that the husband pays the wife Rs.84,000/- towards her maintenance. Since the condition was not complied, the petition itself came to be dismissed. In other words, as on date, H.M.O.P.No.98 of 2018 is not on the file.

5. The current status of H.M.O.P.No.98 of 2018 on the Sub Court, Jeyamkondam is ascertained telephonically and it is stated that the said petition is restored and is now pending on the file of the said court.

6. This Court is satisfied with the reasons stated in the affidavit filed in support of this petition for transfer of H.M.O.P.No.159 of 2020, G.W.O.P.No.31 of 2020 and H.M.O.P.No.**(**)98 of 2018** now pending on the file of the Family Court, Ariyalur. to the file of Principal Sub Court, Thanjavur.

7. Accordingly, the Transfer Civil Miscellaneous Petitions are allowed. The proceedings in H.M.O.P.No.159 of 2020, G.W.O.P.No.31 of 2020 and H.M.O.P.No.**(**)98 of 2018** now pending on the file of Family Court, Ariyalur, are directed to be withdrawn from the said



Court and transferred to the file of Principal Sub Court, Thanjavur, to be disposed of in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

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()Amended as per order of
this Hon'ble Court dated 16.12.2020
in CMP(MD).5518/2020 and TR CMP(MD).203 of 2020**

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/ /2021

Sub Assistant Registrar(CS)

Msa/Cm

To:

- 1.The Judge,
Family Court, Ariyalur
- 2.The Principal Subordinate Judge,
Thanjavur.

+1 CC to Mr.M.Saravanakumar, Advocate SR.No. 18035

Order made in
Tr.C.M.P. (MD) Nos.58, 74 and 203 of 2020
and C.M.P Nos.1033 and 1429 of 2020

Dated: 23.09.2020

SGS (CO)

TR(06.01.2021) 3P 4C