



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

TR.C.M.P. (MD) No.439 of 2019

and

C.M.P (MD) No.10128 of 2019

WEB COPY

Benjamin Raja

... Petitioner/Respondent
vs.

Justina Gracelin

... Respondent /Petitioner

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in D.O.P.263 of 2019 on the file of the Family Court, Tirunelveli and transfer the same to the file of the learned Family Court, Madurai or any Court of competent jurisdiction other than Tirunelveli District.

For Petitioner
For Respondent

: Mr.T.Lajapathi Roy
: No Appearance

ORDER

The petitioner / husband seeks transfer of D.O.P.263 of 2019 filed by the respondent / wife seeking divorce under Section 32 of the Indian Divorce Act.

2. Despite service of notice, the respondent does not appear either in person nor through counsel duly instructed.

3. The petitioner, who is facing the proceedings for restitution of conjugal rights on the file of the Family Court, Tirunelveli at the instance of his wife / respondent has come up with this application seeking transfer the proceedings to any other Court outside Tirunelveli District. The reason assigned for transfer is that he faced life threat from the brother of the respondent herein, if he is to attend the hearing at Tirunelveli. It is also stated in the affidavit that the brother of the respondent herein attacked the petitioner and physically harmed the parents of the petitioner at Tuticorin in their house on 04.02.2019 and an FIR to that effect has also been lodged with the Tuticorin Police Station on the same day.

4. He would therefore apprehend threat and claim that he would not be able to prosecute the proceedings effectively, if he is to attend the hearings at the Family Court, Tirunelveli. The wife is admittedly, the resident and native of Tirunelveli. Convenience of the wife should also be taken into account in deciding the cases



seeking transfer of matrimonial proceedings to the place other than the place, where the wife normally resides.

5. Taking into account the circumstances, I am of the considered opinion that in order to provide peaceful atmosphere for the parties to contest the proceedings and in the interest of justice, the proceedings in D.O.P.No.263 of 2019 pending on the file of the Family Court, Tirunelveli shall be transferred to the file of the 1st Additional District Court, Madurai, which has jurisdiction to try matrimonial cases arising outside the jurisdiction of the Family Court, Madurai. This would be in interest of both parties as both parties need not appear for every hearing before the Additional District Court like the Family Court. Hence, the proceedings in D.O.P.No.263 of 2019 pending on the file of the Family Court, Tirunelveli is withdrawn and transferred to the file of the 1st Additional District Court, Madurai to be disposed of in accordance with law. The Family Court, Tirunelveli is directed to transmit the records in D.O.P.No.263 of 2019 to the 1st Additional District Court, Madurai.

6. This transfer petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The I Additional District Judge, Madurai.

2.The Judge,
Family Court, Tirunelveli.

+1 CC to Mr.T.LAJAPATHIROY, Advocate (SR-299[F] dated 06/01/2020)

TR.C.M.P. (MD) No.439 of 2019

03.01.2020

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