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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.111 of 2021

S.Ramesh

.. Petitioner

Vs.

M.Sonashri

.. Respondent

Prayer: This Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in O.P.No.754 of 2019 pending on the file of the Subordinate Court, Poonamallee and transfer the same to the II Additional Family Court, Chennai.

For Petitioner : Mr.R.Maran

For Respondent : No appearance

O R D E R

(The case has been heard through video conference)

The present Transfer Civil Miscellaneous Petition is filed to withdraw the O.P.No.754 of 2019 on the file of the Subordinate Court, Poonamallee and transfer the same to the file of the II Additional Family Court, Chennai for having joint trial along with H.M.O.P.No.991 of 2020 pending on the file of the II Additional Family Court, Chennai.

2. The O.P.No.754 of 2019 pending on the file of the Subordinate Court, Poonamallee, has been filed by the petitioner/husband for restitution of conjugal rights. The respondent/wife has filed H.M.O.P.No.991 of 2020 before the II Additional Family Court, Chennai for the relief of divorce.

3. The learned counsel appearing for the petitioner/husband submitted that earlier the petitioner/husband has filed H.M.O.P.No.1046 of 2019 before the II Additional Family Court, Chennai for restitution of conjugal rights. The respondent wife filed Tr.C.M.P.No.313 of 2019 before this Court seeking to



transfer the said case from the II Additional Family Court, Chennai to the Subordinate Court, Poonamallee as she finds it very difficult to travel from Avadi to Chennai. This Court vide order dated 27.06.2019, allowed the said Tr.C.M.P. and transferred the H.M.O.P.No.1046 of 2019 from the file of the II Additional Family Court, Chennai to the Subordinate Court, Poonamallee and upon such transfer, the same was renumbered as O.P.No.754 of 2019. Now, the respondent/wife has filed H.M.O.P.No.991 of 2020 before the II Additional Family Court, Chennai for divorce. In such circumstances, the petitioner/husband has filed the present petition seeking to transfer O.P.No.754 of 2019 from the file of the Subordinate Court, Poonamallee to the file of the II Additional Family Court, Chennai for joint trial.

4. Today, when the matter is taken up for hearing, there is no representation on behalf of the respondent/wife either in person or through counsel.

5. This Court considered the arguments made by the learned counsel for the petitioner.

6. This Court is satisfied with the reasons stated in the affidavit filed in support of this petition. Further, since two cases are pending from two different Courts i.e., the wife filed a petition for divorce and the husband filed an application for restitution of conjugal rights, to avoid multiplicity of proceedings and conflicting judgements, both the cases have to be tried before a single Judge.

7. Considering the facts and circumstances of the case and considering the submission made by the learned counsel for the petitioner, O.P.No.754 of 2019 is withdrawn from the file of the Subordinate Court, Poonamallee and transferred to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.991 of 2020 for disposal as per law. The learned Subordinate Judge, Poonamallee, is directed to transmit the papers to the II Additional Family Court, Chennai forthwith. The learned Judge, II Additional Family Court, Chennai is directed to dispose of O.P.No.754 of 2019 along with H.M.O.P.No.991 of 2020 on merits and in accordance with law as expeditiously as possible.

8. The personal appearance of both parties before the II Additional Family Court, Chennai, is dispensed with, except the dates of hearing, on which, the learned Judge insisted upon the parties to appear before the Court. On other hearing dates, the counsel on behalf of the parties may appear before the Court.

9. In fine, this Transfer Civil Miscellaneous Petition is



allowed. Consequently, the connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Poonamallee,
Chennai.

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

Tr.C.M.P.No.111 of 2021

VG-II (CO)
SU (31/08/2021)