



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.208 of 2021

Alexander

...Petitioner/Defendant

-vs-

Chandralekha

...Respondent/plaintiff

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the said MC.No.1 of 2021 from the file of Judicial Magistrate-II, Viruthachalam and transfer the same to the file of Subordinate Judge, Chidambaram, to try and dispose of the same on merit and in accordance with law.

For Petitioners : Mr.P.R.Thiruneelakandan

For Respondent : Mr.K. Sankar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the MC.No.1 of 2021 from the file of Judicial Magistrate-II, Viruthachalam to Subordinate Judge, Chidambaram.

2. The respondent/wife has filed MC.No.1 of 2021 before the Judicial Magistrate-II, Viruthachalam, for maintenance. The petitioner/husband has filed a petition in HMOP.No.9 of 2020 before the Sub-Court, Chidambaram for divorce.

3.The learned counsel for the petitioner/husband submitted that out of wedlock, no child was born to him and hence, he was subject to mental and physical cruelty. He further submitted that he cannot travel all the way to Viruthachalam from Chidambaram for attending the Court hearing in MC.No.1 of 2021. Hence, he prays to transfer the case to Sub-Court, Chidambaram, to have joint Trial with HMOP.No.9 of 2020 before the Sub-Court, Chidambaram. He further submitted that the judgment reported in A.R.Antulay Vs.R.S.Nayak & Another 1988 AIR 1531, 1988 SCR suppl.(1), the Apex Court also clearly held that Court



shall not confer jurisdiction to the court that does not possess any jurisdiction under the statute.

4. The learned counsel for the respondent/wife has submitted that the petitioner is in abroad and he was set ex parte in MC.No.1 of 2021 before the lower court. Hence, he strongly opposed to transfer the case.

5. Considering the facts and circumstances of the case and also the submissions made by both counsel, this court is of the opinion that there is no merit in this case and the reason stated by the learned counsel for the petitioner cannot be accepted. This case is liable to be dismissed.

6. In fine, this Transfer Civil Miscellaneous Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gv

To:

The Judicial Magistrate-II,
Viruthachalam

+1cc to M/s.Varsha, Advocate, S.R.No.37793

Tr.C.M.P.No.208 of 2021

SSD(CO)
RGA(23/08/2021)