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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2021

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

TR CMP No.248 of 2021 and
CMP No.6895 of 2021

V.S.Manikantan

..Petitioner

Vs

M.Leela

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleaded to withdraw and transfer HMOP No.88 of 2021 on the file of the Family Court, Tirunelveli to the Sub Court, Alandur.

For Petitioner : Mr.P.D.Theyzovathi

For Respondent : Mr.A.R.Niyon

O R D E R

It is a peculiar case where the husband has filed for withdrawal and transfer of proceedings in HMOP No.88 of 2021 pending before Family Court, Tirunelveli to the Sub Court, Alandur.

2. It is stated that the marriage between the petitioner and the respondent was solemnized on 27.06.2019 at PPL Kalyana Mandabam, Palayamkottai, Tirunelveli as per Hindu Rituals and customs. It is the case of the petitioner/husband that after sometime, due to difference of opinion, the respondent/wife moved out to her father's place at Hasthinapuram, Chennai and thereafter she moved to Tirunelveli for the purpose of filing HMOP No.88 of 2021 before the Family Court, Tirunelveli seeking divorce under Section 13 (1) (1-a) of Hindu Marriage Act, 1955. Hence, the petitioner/husband has filed this petition to transfer the case. It is further stated that the respondent/wife is also living in Chennai and that it will be convenient for both of them to have trial and disposal of the case in Chennai.



3. The learned counsel appearing for the respondent/wife however states that the petitioner got employment in Chennai temporarily and that after marriage, she has no place of residence at Chennai. The learned counsel further submitted that the petitioner's permanent place of residence is Tirunelveli. Though it is admitted by the counsel for the respondent that the respondent/wife is residing in Chennai temporarily on account of her employment, she has already made arrangements to move to Tirunelveli and that it will be convenient for her to attend the hearing at the Family Court, Tirunelveli. Though the petitioner and the respondent have different version about their permanent residence, the case of the respondent appears to be that the petitioner's permanent residence is at Tirunelveli. The Marriage also took place at Tirunelveli and the Family Court will have jurisdiction to take up the case. It is to be noted that the convenience of the wife will have preference in deciding the matters relating to transfer of proceedings.

4. The petitioner is residing in a rental premises in Chennai on account of his employment which is not proved to be permanent. No record is produced by the petitioner to confirm that he is a permanent employee in any organization in Chennai. It is alleged that the respondent is also at present living in Chennai.

5. As against the said statement, the respondent states that she has decided to move to Tirunelveli. The learned counsel referring to the petition filed by her for dissolution of marriage, submitted that the petitioner wants to drag on the proceedings. In the original petition itself, the respondent has referred to the reply notice sent by petitioner husband wherein the husband warned the wife by threatening to file a petition for dissolution if she does not resume the matrimonial life with him.

6. Having regard to the nature of allegations and the grievance and the fact that the respondent has filed a petition for divorce mainly on the ground that the petitioner is impotent, and the issue to be resolved is narrow, this Court is of the view that the petitioner will not be put to much prejudice / hardship, if trial of the case goes before the Family Court, Tirunelveli.

7. As a result, this Transfer Civil Miscellaneous petition is dismissed. It is made clear that the wife should cooperate for the trial to be conducted at the Family Court, Tirunelveli. In case, the wife does not appear for two consecutive hearings before the Family Court, Tirunelveli, it is open to the petitioner / husband to seek transfer again from Tirunelveli to



Chennai.

No costs. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Family Court, Tirunelveli

+1cc to Mr.A.R.Niyon, Advocate, S.R.No.29852

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RK (CO)
GMY (06/08/2021)