



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2021

WEB COPY

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.387 of 2021
and
C.M.P. No.8998 of 2021

G.Sadaiyappan @ Mahesh

..Petitioner

Versus

Nellai Vadivu @ Nandhini

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P. No.200 of 2020 on the file of Subordinate Court, Mayailaduthurai and transfer the same to the file of Family Court, Chennai to be heard and decided along with the merits of O.P. No.2210 of 2021 on the file of the I Additional Family Court, Chennai.

For Petitioner : Mr. S.Namasivayam

For Respondent : Mr. M.S.Palaniswamy

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P. No.200 of 2020 on the file of Principal Subordinate Court, Mayailaduthurai and transfer the same to the file of I Additional Family Court, Chennai to be heard and decided along with the O.P. No.2210 of 2021 pending on the same file.

2. The petitioner is the husband. The marriage between the petitioner and the respondent wife was solemnized on 27.08.2017. The respondent wife has filed a petition for divorce in H.M.O.P. No.200 of 2020 before the Principal Subordinate Court, Myladuthurai. The petitioner husband has filed a petition for restitution of conjugal rights in H.M.O.P. No.2210 of 2021 before the I Additional Family Court, Chennai. In the affidavit filed in support of this petition, the petitioner has made several allegations against the wife. It is seen that the petitioner has come forward seeking transfer of the petition filed by the wife before the Principal Sub Court, Myladuthurai to I Additional Family Court, Chennai.



3. Normally in a petition for divorce, convenience of the wife will be relevant. In this case, the respondent wife has filed a petition for divorce in H.M.O.P. No.200 of 2020 before the Principal Subordinate Court, Myladuthurai, long back and the petitioner husband filed a petition in H.M.O.P. No.2210 of 2021 before the I Additional Family Court, Chennai. Since common issues arise for consideration in these petitions and the decision is interlinked, in order to avoid conflicting decisions, it is always better when both the proceedings are heard and disposed of after a joint trial. In that if of the matter, this Court is inclined to transfer one of the proceedings to be tried along with the other which is convenience to both parties. As pointed out earlier, the respondent wife is residing at Myladuthurai and she had filed a petition for divorce long back. The subsequent petition filed by the husband before the Family Court, Chennai, can be transferred to Myladuthurai, to be tried along H.M.O.P. No.200 of 2020.

4. Considering the facts and circumstances of the case, the request of the petitioner cannot be considered. However, in the interest of justice the petition filed by the husband shall be transferred to Principal Subordinate Court, Myladuthurai. Accordingly, the proceedings in O.P. No.2210 of 2021 pending on the file of I Additional Family Court, Chennai are hereby withdrawn and transferred to Principal Subordinate Court, Myladuthurai, to be tried along with H.M.O.P. No.200 of 2020, pending on the same file. Learned Judge, Principal Subordinate Court, Myladuthurai, is directed to dispose of the matrimonial proceedings as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of records. In case the respondent wife fails to attend two or more consecutive hearings, it is open to the petitioner husband to seek re-transfer of the case or modification of this order.

5. Thus the transfer civil miscellaneous petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

bkn
To

1. The Principal Subordinate Judge, Myladuthurai.



2. The Judge
I Additional Family Court, Chennai.

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.M.S. Palaniswamy, Advocate sr 36830 (14/09/2021)

Tr.C.M.P. No.387 of 2021

MG (CO)
SP (25/08/2021)