



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

TR.C.M.P.NO.398 OF 2021

AND

C.M.P.NO.9344 OF 2021

R.Karpagam

.. Petitioner

Vs.

E.Rajesh Kumar

.. Respondent

Prayer: This Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in H.M.O.P.No.43 of 2020 pending on the file of the Subordinate Court at Gingee and transfer the same to the file of the Principal Family Court, Chennai.

For Petitioner : Mr.D.Nandhagopal

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 H.M.O.P.No.43 of 2020 on the file of the Subordinate Court, Gingee and transfer the same to the file of the Principal Family Court, Chennai for having joint trial along with H.M.O.P.No.544 of 2021 pending on the file of the Principal Family Court, Chennai.



2. The petitioner/wife has filed H.M.O.P.No.544 of 2021 before the Principal Family Court, Chennai for Restitution of Conjugal Rights. The respondent/husband has filed H.M.O.P.No.43 of 2020 before the Subordinate Court, Gingee to declare the marriage as null and void.

3. The learned counsel for the petitioner/wife submitted that the petitioner is residing with her aged handicapped parents at Chennai and she finds it very difficult to travel from Chennai to Gingee for attending every hearing in H.M.O.P.No.43 of 2020 on the file of the Subordinate Court, Gingee.

4. It is seen from the records that notice has been served on the respondent through Court on 02.07.2021 and though his name appears in the cause list, he did not appear either in person or through any counsel. Hence, this Court proceeds to pass orders on merit.

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

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 restitution of conjugal rights and the husband filed an application for nullity of marriage, 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of the case and considering the submission made by the learned counsel for the petitioner, H.M.O.P.No.43 of 2020 is withdrawn from the file of the Subordinate Court, Gingee and transferred to the file of the Principal Family Court, Chennai to be tried along with H.M.O.P.No.544 of 2021 for disposal as per law. The learned Subordinate Judge, Gingee, is directed to transmit the papers to the Principal Family Court, Chennai forthwith. The learned Judge, Principal Family Court, Chennai is directed to dispose of H.M.O.P.No.43 of 2020 along with H.M.O.P.No.544 of 2021 on merits and in accordance with law as expeditiously as possible.



8. The personal appearance of both parties before the Principal 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.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1. The Subordinate Judge, Gingee.
2. The Principal Family Court, Chennai.

Tr.C.M.P.No.398 of 2021
and C.M.P.No.9344 of 2021

RSV(CO)
RLP(21/09/2021)