



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.C.M.P.Nos.397 and 646 of 2021
and
C.M.P.No.9325 of 2021

Tr.C.M.P.No.397 of 2021:

C.Sathishkumar .. Petitioner

Vs.

M.Subashini .. Respondent

PRAYER in Tr.C.M.P.No.397 of 2021: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, praying to withdraw HMOP.No.44 of 2020 from the learned Sub-Court, Mettur and transfer the same to the learned Sub-Court, Gobichettipalayam to try along with HMOP.No.39 of 2020.

Tr.C.M.P.No.646 of 2021:

M.Subashini .. Petitioner

Vs.

C.Sathishkumar .. Respondent

PRAYER in Tr.C.M.P.No.646 of 2021: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, praying to withdraw HMOP.No.39 of 2020 pending on the file of the learned Sub-Court, Gobichettipalayam and transfer the same to the learned Sub-Court, Mettur to try along with HMOP.No.44 of 2020.

For Petitioner : Mr.N.Manokaran
for petitioner in Tr.CMP.No.397 of 2021
and
for respondent in Tr.CMP.No.646 of 2021

For Respondent : Mr.S.S.Rajesh
for respondent in Tr.CMP.No.397 of 2021
and
for petitioner in Tr.CMP.No.646 of 2021



COMMON ORDER

Tr.CMP.No.397 of 2021 has been filed by the husband seeking transfer of HMOP.44 of 2020 on the file of the sub-Court Mettur to the sub-Court Gobichettipalayam to be tried along with HMOP.No.39 of 2020 pending on the file of the sub-Court Gobichettipalayam. HMOP.No.39 of 2020 is a petition filed under Section 13(1)(a) and 13(1)(b) of the Hindu Marriage Act, seeking divorce, by the husband. HMOP.No.44 of 2020, is under Section 9 of the Hindu Marriage Act, filed by the wife.

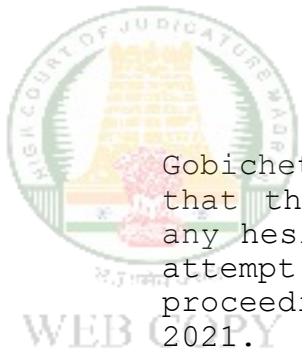
2. The husband moved this Court seeking transfer, specifically alleging that upon retirement of the father of the wife who was working at Mettur, the family of the wife has shifted to Gobichettipalayam and they are residing at Gobichettipalayam.

3. Private notice in the Tr.CMP.No.397 of 2020 was served on the wife at Gobichettipalayam. She herself has received it and the same is evidenced by the acknowledgment dated 26.06.2021. When the Court notice was attempted to be served on her at the said address viz., Pillaiyar Koil 2nd Street, Karattur, Gobichettipalayam, the same was returned with an endorsement 'Addressee cannot be located'. The private notice was served on 26.06.2021, the Court notice was attempted to be served on 15.07.2021. Thereafter, the wife has come up with the Tr.CMP.No.646 of 2021 seeking transfer of HMOP.No.39 of 2020 pending on the file of Sub-Court, Gobichettipalayam to Sub-Court, Mettur to be tried along with HMOP.No.44 of 2020.

4. The wife also filed a counter affidavit to Tr.CMP.No.397 of 2021, where she had stated that she is not residing at Gobichettipalayam and the family had not moved to Gobichettipalayam and they continue to reside at 44/A-3, Cauvery Nagar, Mettur Dam and it is their relatives who are residing at Gobichettipalayam.

5. Mr.N.Manokaran, learned counsel for the respondent has filed an additional typed set showing that the house at Karattur, Gobichettipalayam stands in the name of the mother of the wife and the revenue records are also in the name of the mother and electricity charges are also paid in the name of the mother.

6. I see design in the behavior of the wife. While she had received the private notice that was served on her at Gobichettipalayam, she had managed to return Court notice with an endorsement that the addressee cannot be located. Realizing the mistake, she had chosen to file counter stating that she continued to reside at Mettur and the claim that she resides at



Gobichettipalayam is false. It is very clear from the records that the claim of the wife is false. I therefore do not have any hesitation to conclude that Tr.CMP.No.646 of 2021 is only an attempt to dislodge the attempt of the husband from getting the proceedings at Mettur to Gobichettipalayam in Tr.CMP.No.347 of 2021.

7. Hence, Tr.CMP.No.646 of 2021 is dismissed on the ground that it is an abuse of process of Court by the wife, who wants to project false case before this Court and Tr.CMP.No.397 of 2021 is allowed, since I am convinced that the wife is residing at Gobichettipalayam only and she has received the private notice served on her in Tr.CMP.No.397 of 2021 at Gobichettipalayam. Accordingly, HMOP.No.44 of 2020 is withdrawn from the file of the Sub-Court, Mettur and transferred to the file of the Sub-Court Gobichettipalayam to be tried and disposed of along with HMOP.No.39 of 2020. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

dsa

To

1.The Subordinate Judge,
Mettur.

2.The Subordinate Judge,
Gobichettipalayam.

+1cc to Mr.N.Manokaran, Advocate SR. No.64227

+2ccs to Mr.S.S.Rajesh, Advocate SR. No.64949, 64948

Tr.C.M.P.Nos.397 and 646 of 2021

SSV (CO)

PR (21/12/2021)