



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

TR CMP No.715 of 2021

M.R.Balaji Dev

... Petitioner/Respondent

Vs

R.Yamini

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleased to withdraw the case in H.M.O.P. No.1288 of 2018 on the file of the Additional Family Court, Coimbatore and transfer the same to be tried along with H.M.O.P.No.145 of 2021 on the file of the 2nd Additional Sub Court, Coimbatore.

For Petitioner : Mr.R.Vijayakumar
For Respondent : Mr.M.D.Poornachari

O R D E R

The husband seeks transfer of HMOP.No.1288 of 2018 on the file of the Additional Family Court, Coimbatore to the II Additional Sub Court, Coimbatore to be tried along with HMOP.No.145 of 2021.

2.The HMOP.No.145 of 2021 is a proceeding for divorce filed by the husband. It was actually filed as HMOP.No.894 of 2018 on the file of the Family Court, Madurai. The wife sought for transfer of the said HMOP on the file of the Family Court, Madurai to Additional Family Court, Coimbatore to be tried along with HMOP.No.1288 of 2018.

3.In Tr.CMP(MD)No.465 of 2019, by order dated 23.02.2021, I had allowed the request for transfer. Taking into consideration, the inconvenience that would be caused to the husband, if the proceedings are transferred to the Family Court, Coimbatore, where he would be required to appear for every hearing, I have directed the transfer of HMOP.No.894 of 2018 to the file of the Sub Court, Coimbatore. However, the OP that was



pending before the Additional Family Court, Coimbatore, namely, HMOP.No.1288 of 2018 was not transferred. Hence, this petition.

4.The learned counsel for the respondent wife would however contend that convenience of the wife also means the inconvenience of her husband and therefore in order to increase the inconvenience caused to the husband, all the proceedings may be transferred to the Family Court, Coimbatore, where he would be forced to appear for every hearing in person by travelling from Madurai. I am unable to subscribe to the said contention of the learned counsel for the wife. A proceeding for divorce and a proceeding for restitution cannot be allowed to be tried simultaneously in different Courts as there is a strong possibility of their being conflicting verdicts. Overruling the objection of the learned counsel for the wife that any transfer should only cause inconvenience to the husband, the HMOP.No.1288 of 2018 is withdrawn from the file of the Additional Family Court, Coimbatore and transferred to the file of the II Additional Sub Court, Coimbatore to be tried along with HMOP.No.145 of 2021. The Transfer Civil Miscellaneous Petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

vs

To

1.The Additional Family Court Judge,
Coimbatore.

2.The II Additional Subordinate Judge,
Coimbatore.

Copy to:

The Section Officer,

V.R.Section,

High Court, Madras-104.

+lcc to Mr.Narayanamoorthy, Advocate SR.No.64179

+lcc to Mr.Vijayakumar, Advocate SR.No.64260

TR CMP No.715 of 2021

MG(CO)

CB(22/12/2021)