



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.48 of 2021

and C.M.P. (MD) No.1006 of 2021

WEB COPY

K.Eswari

... Petitioner/Respondent

-vs-

M.Ayyanar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the divorce petition in H.M.O.P.No.165 of 2020 on the file of the Subordinate Court, Thirumangalam and to transfer the same to the file of the Subordinate Court, Paramakudi to be heard along with the suit for maintenance in O.S.No.139 of 2020.

For Petitioner : Mr.J.Bharathan

For Respondent : Mr.T.Veerakumar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the divorce petition in H.M.O.P.No.165 of 2020 on the file of the Subordinate Court, Thirumangalam and to transfer the same to the file of the Subordinate Court, Paramakudi to be heard along with the suit for maintenance in O.S.No.139 of 2020.

2.H.M.O.P.No.165 of 2020 was filed by the respondent/husband before the Subordinate Court, Thirumangalam for divorce. The petitioner/wife filed a suit in O.S.No.139 of 2020 before the Subordinate Court, Paramakudi seeking a decree of maintenance.

3. The learned counsel for the petitioner submitted that the distance between Tirumangalam and Parthibanu is about 100 kms. In such circumstances, the petitioner could not able to travel to Tirumangalam for attending every hearing in H.M.O.P.No.165 of 2020. It is further submitted that the petitioner has already filed O.S.No.139 of 2020 before the Subordinate Court, Paramakudi, for maintenance and the oral and documentary evidence to be let-in in both H.M.O.P.No.165 of 2020 and O.S.No.139 of 2020 are one and the same and if both proceedings are tried by different courts, it would lead to conflicting decisions. Therefore, the petitioner seeks transfer of H.M.O.P.No.165 of 2020 to the file of the Subordinate Court, Paramakudi, to be tried along with O.S.No.139 of 2020.

4.The learned counsel for the respondent has strongly opposed for transfer of the case from the file of the Sub Court, Tirumangalam to the file of the Subordinate Court, Paramakudi.



5.This Court has considered the submissions made on either side.

6. This Court is satisfied with the reasons stated in the affidavit filed in support of this petition.

7. Considering the facts and circumstances of the case and also considering the submissions made by both counsel and in order to avoid conflicting decisions by different courts, H.M.O.P.No.165 of 2020 on the file of the Subordinate Court, Thirumangalam is withdrawn and transferred to the file of the Subordinate Court, Paramakudi to be heard along with the suit for maintenance in O.S.No.139 of 2020 for disposal as per law. The Subordinate Judge, Thirumangalam is directed to transmit the papers to the Subordinate Court, Paramakudi forthwith. The Subordinate Judge, Paramakudi is directed to dispose of H.M.O.P.No.165 of 2020 along with O.S.No.139 of 2020 on merits and in accordance with law as expeditiously as possible.

8. This petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM/msa

To:

1. The Subordinate Judge
Thirumangalam.

2. The Subordinate Judge
Paramakudi.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-17296[F] dated 23/04/2021)

Order made in
Tr.C.M.P. (MD) No.48 of 2021
and
C.M.P. (MD)No.1006 of 2021

Dated:
21.04.2021