



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.212 of 2021

D.Rajkumar Gavaskar

... Petitioner/Petitioner

-vs-

A.D.Diana

... Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the I.D.O.P.No.1942 of 2019 pending on the file of the learned Principal Sub Court, Madurai to be tried along with I.A.No.1208 of 2020 in I.D.O.P.No.972 of 2019 pending before the learned Family Court, Madurai.

For Petitioner : Mr.K.Anna

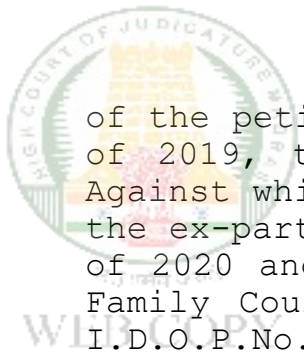
For Respondent : Mr.J.Selvin Rajesh

for M/s.Dictum Law Firm

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the I.D.O.P.No.1942 of 2019 pending on the file of the learned Principal Sub Court, Madurai to be tried along with I.A.No.1208 of 2020 in I.D.O.P.No.972 of 2019 pending before the learned Family Court, Madurai.

2.The learned counsel for the petitioner/husband submitted that the petitioner has filed I.D.O.P.No.1942 of 2019 on the file of the Principal Family Court, Chennai, against the respondent/wife for restitution of conjugal rights and it was transferred to I Additional Family Court, Chennai. Thereafter, the respondent approached this Court vide Tr.C.M.P(MD)No.225 of 2019 seeking for transfer of I.D.O.P.No.1942 of 2019 to the file of Principal Sub Court, Madurai. When the said Transfer Civil Miscellaneous Petition came up for admission, this Court granted an order of interim stay vide order dated 20.06.2019.He further submitted that Tr.C.M.P(MD) No.225 of 2019 is erroneous, due to lack of jurisdiction and the respondent sought for transfer of the case to the file of the Principal Sub Court, Madurai, only with an intention to avoid attending physical appearance on each and every hearings. Based on the stay granted by this Court, the respondent filed I.D.O.P.No.972 of 2019 before the Family Court, Madurai, for dissolution of Marriage. By suppressing the pendency of the case in I.D.O.P.No.972 of 2019 before the Family Court, Madurai, the respondent got an order of transfer in I.D.O.P.No.1942 of 2019 from the file of I Additional Family Court, Chennai to the file of Principal Sub Court, Madurai in Tr.C.M.P(MD) No.229 of 2019. Due to the non-appearance



of the petitioner before the Family Court, Madurai in I.D.O.P.No.972 of 2019, the respondent got an ex-parte decree dated 08.07.2020. Against which, the petitioner filed an application for setting aside the ex-parte decree along with condone delay petition in I.A.No.1208 of 2020 and the same is pending. He would further submit that the Family Court, Madurai, is the competent forum to try the case in I.D.O.P.No.1942 of 2019. Therefore, he prays to transfer the case in I.D.O.P.No.1942 of 2019 to the file of Family Court, Madurai and to be tried along with I.A.No.1208 of 2020 in I.D.O.P.No.972 of 2019.

3.The learned counsel for the respondent has strongly opposed for transfer of the case from the file of the Principal Sub Court, Madurai to the file of the Family Court, Madurai.

4.This Court considered the arguments made by the learned counsel appearing on either side.

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

6.Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel on either side, I.D.O.P.No.1942 of 2019 is withdrawn from the file of the Principal Sub Court, Madurai and transferred to the file of the Family Court, Madurai to be tried along with I.A.No.1208 of 2020 in I.D.O.P.No.972 of 2019 for disposal as per law. The learned Principal Subordinate Judge, Madurai, is directed to transmit the papers to the Family Court, Madurai, forthwith. The learned Judge, Family Court, Madurai, is directed to dispose I.D.O.P.No.1942 of 2019 along with I.A.No.1208 of 2020 in I.D.O.P.No.972 of 2019 on merits and in accordance with law as expeditiously as possible.

7. In fine, this Transfer Civil Miscellaneous Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa/cp

To:

1. The Principal Subordinate Judge, Madurai.



2. The Judge,
Family Court, Madurai.

Tr.C.M.P. (MD) No.212 of 2021
18.06.2021

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