



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.178 of 2021

and

C.M.P. (MD) No.3393 of 2021

S.Xavier Amalanathan ... Petitioner/Plaintiff
-vs-

R.Anitha Santhanamary ... Respondent/Defendant

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.S.No.74 of 221 on the file of the learned District Judge, Tiruchirappalli (Mahila Court) and transfer the same to the learned Family Judge Court at Tiruchirappalli, to be tried along with I.D.O.P.No.35 of 2017, O.S.No.22 of 2018 and M.C.No.123 of 2019 pending on the file of the learned Family Judge Court at Trichirappalli.

For Petitioner : Mr.VR.Shanmuganathan
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the O.S.No.74 of 221 on the file of the learned District Judge, Tiruchirappalli (Mahila Court) and transfer the same to the learned Family Judge Court at Tiruchirappalli, to be tried along with I.D.O.P.No.35 of 2017, O.S.No.22 of 2018 and M.C.No.123 of 2019 pending on the file of the learned Family Judge Court at Trichirappalli.

2.The petitioner has filed O.S.No.74 of 2021 before the learned District Judge, Tiruchirappalli, for declaration that the suit property belongs to him absolutely and seeking the relief of recovery of possession of the same and I.D.O.P.No. 35 of 2017 was filed before the Family Court, Trichirappalli, for divorce. The respondent as guardian of the minor daughters filed a suit in O.S.No.22 of 2018 before the Family Court, Trichirappalli, for maintenance and also for permanent injunction and M.C.No.123 of 2019 was filed by the respondent before the Family Court, Trichirappalli, for her maintenance.



3.The learned counsel for the petitioner submitted that the facts and the dispute arising out of all the four cases are one and the same and the evidence adduced by the parties in one proceeding may affect the other. He would further submit that if the proceedings are tried by different courts, it would lead to conflicting decisions. Therefore, the petitioner seeks to transfer the suit in O.S.No.74 of 2021 to the file of the Family Court, Tiruchirappalli, to be tried along with I.D.O.P.No.35 of 2017, O.S.No.22 of 2018 and M.C.No.123 of 2019.

4.Though the name of the respondent is printed in the cause list, the respondent has not chosen to appear either in person or through counsel duly instructed.

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

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 the learned counsel for the petitioner, O.S.No.74 of 2021 is withdrawn from the file of the learned District Judge, Tiruchirappalli (Mahila Court) and transferred to the file of the Family Court, Tiruchirappalli, for disposal as per law. The District Judge, Tiruchirappalli (Mahila Court), is directed to transmit the papers to the Family Court, Tiruchirappalli, forthwith. The Judge, Family Court, Tiruchirappalli, is directed to dispose of O.S.No.74 of 2021 along with I.D.O.P.No.35 of 2017, O.S.No.22 of 2018 and M.C.No.123 of 2019, on merits and in accordance with law as expeditiously as possible.

8. In fine, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

msa/cp

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To:

1.The Judge, Family Court, Tiruchirappalli.

2.The District Judge, Tiruchirappalli (Mahila Court).

**Order made in
Tr.C.M.P. (MD) No.178 of 2021**

and

C.M.P. (MD) No.3393 of 2021

Dated:

29.06.2021

AS (05.07.2021) 3P 3C