



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Thursday, the Twenty Third day of September Two Thousand and
Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.MAHADEVAN

CMP(MD)No.4267 of 2021
in
Tr.CMP(MD)No.256 of 2020

R.Subaash ... Petitioner/Respondent

Vs

E.Anandhi ... Respondent/Petitioner

Prayer in CMP.MP(MD)No.4267 of 2021 :- This Civil Miscellaneous Petition is filed under order 41 R 21 of the Code of Civil Procedure to recall the order passed on 15.12.2020 in the above Tr.C.M.P. (MD) No.256 of 2020 by transferring the HMOP.No.1129 of 2020 pending from the Family Court at Tiruppur to Subordinate Court, at Tenkasi and further order to rehear the Civil Miscellaneous Petition on the side of this petitioner and pass any other necessary and suitable orders in this petition.

Prayer in Tr.CMP(MD)No.256 of 2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C to withdraw the H.M.O.P.No.1129 of 2020 pending on the file of Family Court, Tiruppur and transfer the same to the file of Sub Court, Tenkasi for having joint trial along with H.M.O.P.No.124 of 2020 pending on the file of Sub Court, Tenkasi.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/s.A.Selvam, Advocate for the Petitioner this Court made the following order:-

According to the petitioner / husband, who is the respondent in Tr.CMP(MD)No.256 of 2020, due to unbearable torture and mental agony undergone by him at the hands of the respondent / wife, he filed a petition in HMOP.No.1129 of 2020 before the Family Court, Tiruppur, for dissolution of the marriage held on 19.03.2018. To defeat the said claim, the respondent / wife filed a petition in HMOP.No.124 of 2020 before the Sub Court, Tenkasi, for restitution of conjugal rights. Subsequently, she also filed a petition in Tr.CMP(MD)No.256



of 2020 before this court, praying to transfer the said HMOP.No.1129 of 2020 from the file of the Family Court, Tiruppur to the file of the Sub Court, Tenkasi to be tried along with HMOP.No.124 of 2020. This Court, by order dated 15.12.2020, disposed of the said transfer petition as prayed for. Feeling aggrieved, the present miscellaneous petition came to be filed by the petitioner / husband to recall the said order, stating that if the divorce petition is transferred to the court at Tenkasi, his interest would be totally prejudiced, his life would be paralysed and irreparable loss would be caused to his parents.

2.However, when the matter was taken up for consideration, the learned counsel for the petitioner, after arguing some time, submitted that it would suffice, if the petitioner / husband is granted liberty to invoke other legal remedy available to him.

3.Granted such liberty, this miscellaneous petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

1.The Judge,
Family Court,Tiruppur.

2.The Subordinate Judge,
Tenkasi.

Copy to:-

The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,Madurai.

+ 2 CC to M/s.A.Selvam, Advocate SR.No.30208

ORDER DATED : 23/09/2021

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ORDER

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CMP(MD) . No.4267 of 2021

in

Tr.CMP(MD)No.256 of 2020

Giving direction and etc.
as stated within.