



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.368 of 2021

and

C.M.P(MD) No.7407 of 2021

S.Vinoth kumar ... Petitioner
Vs.
D.Divya ... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP No. 4180 of 2019 on the file of the Family Court No.VII, Chennai and transfer the same to the file of the Family Court, Srivilliputhur.

For Petitioner : Mr.M.Murugan
For Respondent : Mr. T.Mathi

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No. 4180 of 2019 on the file of the Family Court No.VII, Chennai and transfer the same to the file of the Family Court, Srivilliputhur.

2.The learned counsel for the petitioner would submit that the petitioner is the husband. The marriage between the petitioner and the respondent was solemnized on 25.02.2018 at Anthoniar Thirumana Mandapam, Sathankulam as per Hindu rites and customs. The learned counsel for the petitioner would further submit that the petitioner and the respondent are classmates and that it was a love marriage. After marriage the respondent and her parents did not treat the petitioner with dignity and there was a matrimonial discard. The learned counsel would further submit that the petitioner is presently working as a clerk in Tamil Nadu Mercantile Bank, Veerasigamani, Sankarankovil Taluk, Tenkasi District. The petitioner was always having love and affection towards his wife and thereby he has filed a petition in HMOP No. 138 of 2019 on the file of the Family Court, Srivilliputhur seeking restitution of conjugal rights. Meanwhile the respondent had filed HMOP No. 4180 of 2019 on the file of the Family Court, Chennai seeking divorce. The petitioner's intention is only to join with the respondent/wife and thereby the present petition has been filed seeking for transfer. He would further submit that the petitioner finds it very difficult to travel all the way from Srivilliputhur to Chennai to attend the hearing. He



would further submit that though the petition in HMOP No. 138 of 2019 has been dismissed for default on 12.03.2021, he has filed petition in IA No. 2 of 2021 in HMOP No. 138 of 2019 to restore the same. In the said IA petition notice was served on the respondent.

3. The learned counsel for the respondent vehemently opposed to transfer the HMOP No. 4180 of 2019 on the file of the Family Court No.VII, Chennai to Srivilliputhur stating that though the marriage between the petitioner and the respondent was love marriage, due to the attitude of the petitioner, the respondent was constrained to file the petition and the petition is ripe for enquiry and only to avoid appearing before the Court, the present transfer petition has been filed. He would further submit that the real intention of the petitioner is not join with the respondent only to harass the respondent and in fact the petition in HMOP No. 138 of 2019 was also dismissed for default on 21.03.2021 and thereafter, he has filed a petition in I.A.No.1 of 2021 to restore the same and later, I.A.No.1 of 2021 had been dismissed for default and now in IA.No.02 of 2021 in HMOP No. 138 of 2019 has been filed to restore the same. He would also submit that the Courts have repeatedly held that hardship and convenience of the wife has to be taken into account while deciding the petition for transfer and the respondent being a lady will be finding it very difficult to travel all the way from Chennai to Srivilliputhur and her comparative hardship in more and, hence he seeks dismissal of the petition.

4.The respondent is without job and she has to depend on her husband for money. Further no grounds has been made out for transfer of the petition. The comparative hardship of the wife would be more.

5.In the result, this Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

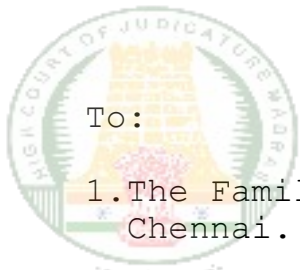
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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

1.The Family Court No.VII,
Chennai.

2.The Family Court,
Srivilliputhur.

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SR (CO)

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