



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

CORAM :

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.No.34 of 2022

and

C.M.P.No.840 of 2022

M.Barath

... Petitioner

Vs.

1.S.Aparajitha

2.B.Praharshita

... Respondents

Prayer:- Petition is filed under Section 24 of the Code of Civil Procedure to withdraw M.C.No.38 of 2021 on the file of the JM II Court, Alandur and transfer the same to the file of the Sub Court at Alandur to be tried, heard and decided along with the H.M.O.P.No.175 of 2021 since pending on the file of the Sub-Court, Alandur.

For Petitioner : Mr.V.Adhivarahan

RDER

This petition is filed seeking to withdraw M.C.No.38 of 2021 pending on the file of the Judicial Magistrate No.II, Alandur to the file of the Subordinate Court, Alandur to be tried along with H.M.O.P.No.175 of 2021.

2. The grounds on which the transfer is sought for is that both the cases arise out of the same matrimonial dispute and that the parties are same in both the issues and both the Courts are situate in the very same complex. Therefore, the petition for transfer is filed.

3. When the matter had come up for admission on 31.01.2022, this Court had asked the learned counsel to address as to how the Subordinate Court would have jurisdiction to decide the proceedings under Section 125 of the Code of Civil Procedure, which is now pending before the Judicial Magistrate II, which is the competent Court.

4. When the matter was called today, the learned counsel



would submit that the Subordinate Court has Sessions Jurisdiction also and therefore it can be transferred. Be that as it may, on the merits of the petition, the transfer is sought for on the ground that the issues involved in both the matter is same. I do not agree with the submission of the learned counsel since the issue which is involved in the HMOP filed for divorce is with reference to the reasons pleaded therein for seeking divorce. However, in the maintenance case, the issue is only with reference to quantum of maintenance that has to be paid. Admittedly, the petitioner by filing the petition for divorce admits that the respondent is his wife and it is also admitted that he has not been maintaining her.

5. Therefore, the issue involved in both the petition requires a different set of evidences. That apart, considering the fact that both the petitions are in the same complex no prejudice is going to be caused to the petitioner if the matters continued to remain in the very same Court.

6. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II, Alandur.

2.The Subordinate Court, Alandur.

Tr.C.M.P.No.34 of 2022

PL(CO)
SB(25/02/2022)