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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.03.2022
CORAM

THE HON'BLE Ms.JUSTICE P.T.ASHA

Tr.C.M.P.No.106 of 2022
and
C.M.P.No.1923 of 2022

Abinaya

... Petitioner

Vs

Ranjith Kumar

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.276 of 2021 from the file of the Family Court, Salem and transfer the same to the file of the Subordinate Court, Attur, to be tried jointly along with H.M.O.P.No.76 of 2020.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.S.Mayilnathan

O R D E R

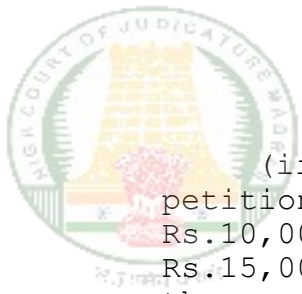
The Petitioner/wife has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.276 of 2021 pending on the file of the Family Court, Salem to Subordinate Court, Attur, to be tried along with H.M.O.P.No.76 of 2020.

2. The petitioner-wife had filed H.M.O.P.No.76 of 2020 under Section 12(1)(a) of the Hindu Marriage Act before the Sub Court, Attur seeking nullity of marriage. The respondent-husband had also filed H.M.O.P.No.276 of 2021 under section 9 of the Hindu Marriage Act before the Family Court, Salem seeking restitution of conjugal rights.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on reocrd.

4. It is brought to the notice of this Court that a joint Agreement dated 16.11.2019 had been entered into between the petitioner and the respondent, the terms of which, are as follows:

(i) The marriage expenses would be paid by the respondent to the petitioner, which the Court is informed, has been paid.



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(ii) A sum of Rs.25,00,000/- should be paid to the petitioner as an one time settlement, of which, a sum of Rs.10,00,000/- has already been paid and remaining sum of Rs.15,00,000/- was deposited in joint deposit in the name of the respective fathers.

(iii) Both the parties would sign the mutual consent divorce petition.

5. It is the submission of the learned counsel for the petitioner-wife that the respondent-husband had complied with above first two clauses, but, however, he refused to file a mutual consent divorce petition, which prompted her to file an application in H.M.O.P.No.76 of 2020 to declare the marriage as null and void. As a counter blast, the respondent-husband appears to have filed H.M.O.P.No.276 of 2021 on the file of the Family Court, Salem for restitution of conjugal rights. All of this after, he has consented for a mutual consent divorce.

6. Both the learned counsels, however, requested that when the matter is transferred to the file of the Sub Court, Attur, the learned Judge, to whom H.M.O.P.No.276 of 2021, is assigned, may first attempt to mediate between the parties and in case mediation fails, the Court can proceed to hear H.M.O.Ps.

7. Considering the fact that already the parties and their respective families have entered into an agreement, which has been reduced into writing, H.M.O.P.No.276 of 2021 filed by the respondent, be withdrawn and transferred to the Sub Court at Attur, to be tried along with H.M.O.P.No.76 of 2020, where, the parties shall give effect to the third clause stated supra, if so advised.

8. In the light of the above agreement dated 16.11.2019, which has now been produced before this Court, the learned Subordinate Judge, Attur, to whom the matter is assigned, shall first make an attempt to mediate the dispute between the parties and thereafter, proceed with the case.

9. Accordingly, this Tr.C.M.P. is allowed and H.M.O.P.No.276 of 2017, pending on the file of the Family Court, Salem shall stand withdrawn and transferred to the file of Sub Court, Attur, to be tried along with H.M.O.P.No.76 of 2020. No Costs. Consequently, Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



srn
To

1. The Judge, Family Court, Salem.

2. The Subordinate Judge, Attur.

3. The Section Officer,
V.R.Section, High Court, Madras

+1 cc to Mr.L.Mouli, Advocate Sr.NO. 22183

+1 cc to Mr.S.Mayilnathan, Advocate Sr.NO. 2289

Tr.C.M.P.No.106 of 2022

and

C.M.P.No.1923 of 2022

mt (CO)

A.SK(19/04/2022)