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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM :

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Tr.C.M.P. No.160 of 2022
and
C.M.P.No.3110 of 2022

Mr.C.Naveen Raj

... Petitioner

..Vs..

Mrs.Aksshaya
Wife of Naveen Raj,
Represented by his mother
and Power of Attorney,
Mrs.Jayashree

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the the petition in H.M.O.P.No.1936 of 2021 from the file of the Additional Family Court at Coimbatore and transfer it to the Sub-Court at Poonamallee to be tried along with H.M.O.P.No.637 of 2021.

For Petitioner : Mr.P.Anandan

For Respondent : Ms.Elizabeth Ravi

O R D E R

This petition is filed to withdraw the H.M.O.P.No.1936 of 2021 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Subordinate Court at Poonamallee to be tried along with H.M.O.P.No.637 of 2021.

2 Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3.The petitioner is the husband who has filed H.M.O.P.No.637 of 2021 for restitution of conjugal rights at Subordinate Court, Poonamallee.



4. The respondent/wife has preferred H.M.O.P.No.1936 of 2021 for dissolution of marriage. Now, the petitioner/husband has filed this petition to withdraw the H.M.O.P.No.1936 of 2021 from the file of the the Additional Family Court, Coimbatore and to transfer the same to Sub-Court, Poonamallee to be tried along with H.M.O.P.No.637 of 2021.

5. It is needless to state that in the matrimonial proceedings preference should be given to the convenience of the wife. In fact, as per Section 19(iii-a) of the Hindu Marriage Act, the wife has got statutory right to file the petition where she resides.

6. The learned counsel for the petitioner/husband submitted that his wife has filed the petition for dissolution of marriage through her power agent and hence Section 19(iii-a) of the Hindu Marriage Act, is not applicable.

7. The representation is made for the respondent/wife through her power agent because she is residing at Belgium and hence she cannot make herself available in India for conducting the proceedings. The power agent is none other than her mother. Just because the wife was under compelling circumstances to appear through power agent, that will not dis-entitle her from invoking the statutory jurisdiction conferred on her under Section 19 (iii-a) of the Hindu Marriage Act.

8. The petitioner/husband has stated that he is being threatened by the in-laws at Coimbatore and hence, the proceedings should be transferred to Sub-Court, Poonamallee. Such allegations cannot be made so boldly without any supporting materials. Even, if these allegations are true, the petitioner would seek appropriate remedy before the concerned Family Court. Since the respondent/wife is represented through her mother, it is needless to state about the hardship that may be caused to her mother to travel from Coimbatore to Poonamallee and attend the Court proceedings.

9. Had the petitioner sought to transfer the petition filed by him for restitution for conjugal rights to Coimbatore and try the same along with H.M.O.P.No.637 of 2021, that would have paved the way for arriving at any amicable settlement. But, the petitioner has chosen the other way round, which will not suit. I find no valid reason for granting the relief sought for by the petitioner.



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

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

ssn

To

The Additional Family Court Judge,
Coimbatore.

+1cc to M/s.Majestic Law Firm, Advocate SR.No.36015

+1cc to Mr.Elizabeth Ravi, Advocate SR.No.35299

Tr.C.M.P. No.160 of 2022
and
C.M.P.No.3110 of 2022

GJ(CO)
GMY(07/07/2022)