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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

TR.CMP. NO.149 OF 2022

AND

C.M.P.NO.2919 OF 2022

R.Thilak kumar ... Petitioner/Respondent.

Vs

Yasodha ... Respondent/Petitioner.

PRAYER:

Petition filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the H.M.OP. No. 211 of 2021 on the file of the III Subordinate Judge Poonnamallee to the file of II Additional Family Court Chennai so as to enable for trial along with H.M.O.P. No. 2811 of 2020 before II Additional Family Court Chennai.

For Petitioner : M/s B.Neelambikai
For Respondent : Mr.G.V.Sridharan

ORDER

The husband has filed this Transfer petition seeking to transfer HMOP No.211 of 2021 filed by the wife seeking restitution of conjugal rights on the file of the III Sub Court, Poonnamallee to the file of the II Additional Family Court, Chennai to be tried along with HMOP No. 2811 of 2020 pending on the file of the II Additional Family Court, Chennai, which is filed by the husband to grant a decree of divorce.

2. The husband has filed the application for transfer on the ground that the respondent wife is attending the proceedings in HMOP No.2811 of 2020 pending before the II Additional Family Court, Chennai. Therefore, H.M.O.P. No.211 of 2021 pending on the file of the III Sub Court, Poonnamallee can be withdrawn and transferred to the file of the II Additional Family Court, Chennai to be tried along with HMOP No.2811 of 2020.

3. The learned counsel appearing for the respondent/wife submitted that the parties have agreed to mutual separation.



However, the said statement has been refuted by the learned counsel appearing for the petitioner.

4. Heard the counsel.

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5. It is an admitted fact that the respondent/wife is attending the hearings in HMOP No.2811 of 2020 before the II Additional Family Court, Chennai. If the two proceedings are held in different Courts it could result in multiplicity of proceedings and conflicting orders. Therefore, both matter have to be heard together. This Court take note that the OP filed by the husband is prior in point of time and further the respondent is attending the hearings at the II Additional Family Court, Chennai where HMOP No.2811 of 2020 is pending. Therefore, in the interests of justice HMOP No.211 of 2021 pending on the file of the III Sub Court, Poonnamallee is withdrawn and transferred to the file of the II Additional Family Court, Chennai to be tried along with HMOP No.2811 of 2020.

6. Considering the fact that the matter is now being transferred to the file of the II Additional Family Court, Chennai, the learned Judge shall first try to initiate the settlement between the parties. With these directions the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The III Sub Court, Poonnamallee.
2. The II Additional Family Court, Chennai.

+1cc to M/s B.Neelambikai, Advocate, S.R.No.20505

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and
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MT (CO)
PM/27/04/2022