

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.329 of 2022
and C.M.P.No.6590 of 2022

M.Kothandaraman

... Petitioner

..Vs..

S.Jothilakshmi

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the petition in HMOP.No.55 of 2022 on the file of Sub Court, Kanchipuram and to transfer the same to the Sub Court, Arakkonam and try along with the HMOP.No.137 of 2021.

For Petitioner : Mr.M.Arunkumar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the petition in HMOP.No.55 of 2022 on the file of Sub Court, Kanchipuram and to transfer the same to the Sub Court, Arakkonam and try along with the HMOP.No.137 of 2021.

2. Heard the learned counsel for the petitioner and perused the materials available on record. Though the notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of the respondent.

3.The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was solemnized on 09.06.2016 as per Hindu rites and customs. The petitioner/ husband filed HMOP.No.137 of 2021 on the file of Sub-Court, Arakkonam seeking divorce and the respondent/ wife filed HMOP.No.55 of 2022 on the file of Sub-Court, Kanchipuram seeking restitution of conjugal rights. Now, the Petitioner herein who is the husband has preferred the present petition to withdraw H.M.O.P.No.55 of 2022 pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the Sub-Court, Arakkonam to be tried along with H.M.O.P.No.137 of 2021.

4. The learned counsel for the petitioner submitted that for the purpose of convenience and joint trial the H.M.O.P.No.55 of 2022 filed by the respondent/ wife may be withdrawn and transferred to Sub-Court, Arakkonam to be tried along with H.M.O.P.No.137 of 2021. He further submitted that the respondent have some mental health issues.

5. It is needless to state that in matrimonial proceedings, preference in the matter of jurisdiction should be given to the convenience of the wife. The said position has been settled in various Judgments of the Hon'ble Supreme Court and more particularly in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Infact as per the amended Section 19(iii-a) of the Hindu Marriage Act, 1955, the wife is guarded with the right to file proceedings in the place where she resides. The above amendment was brought with the object of facilitating the wife to participate in the matrimonial proceedings without any hardship.

6. The petitioner wished a joint trial of both the matters and hence it would be appropriate to withdraw the proceedings pending in HMOP.No.137 of 2021 on the file of the Sub-Court, Arakkonam and transfer it to Sub-Court, Kancheepuram to be tried along with HMOP.No.55 of 2022. The learned counsel for the petitioner accepts for such a proposal.

7. Hence, this Transfer Civil Miscellaneous Petition is disposed of with a direction to withdraw the proceedings pending in HMOP.No.137 of 2021 on the file of the Sub-Court, Arakkonam and transfer the same to Sub-Court, Kancheepuram to be tried along with HMOP.No.55 of 2022. The learned Sub-Judge, Arakkonam is directed to transmit all the records pertaining to H.M.O.P.No.137/2021 to the file of the Sub-Court, Kancheepuram, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

dsa

To

1.The Sub Judge, Arakkonam.

2.The Sub Judge, Kanchipuram.

+1cc to Mr.M.Arunkumar, Advocate SR.No.34390

Tr.C.M.P. No.329 of 2022

AJB(CO)
GMY(21/07/2022)