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Tr.C.M.P.No.359 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.09.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

Tr.C.M.P.No.359 of 2022
and CMP.No.6805 of 2022

A.Arunkumar

...Petitioner

Vs

S.S.Saraswathi

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the HMOP.No.29 of 2022, pending on the file of the Family Judge of Madurai and transfer to tried along with HMOP.No.244 of 2022 pending before the Court of Subordinate Judge, Poonamallee.

For Petitioner : Mr.B.Kumarasamy
for P.Sabastin

For Respondent : M/s.P.Kumanan



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ORDER

The petitioner/husband has come up with this transfer Civil Miscellaneous Petition, seeking transfer of petition for restitution of conjugal rights filed by the respondent/wife in HMOP.No.29 of 2022 from the file of Family Judge at Madurai to Subordinate Judge, Poonamallee for joint trial along with his petition for dissolution of marriage in HMOP.No.244 of 2022.

2. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the respondent.

3. According to the petitioner, the respondent/wife is employed at Bangalore and Poonamallee is convenient place to attend the Court hearing instead of travelling to Madurai.

4. According to the respondent/wife, Madurai is her native



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place, wherein, her widowed mother is residing along with her sister. It was also brought to the notice of this Court that the respondent already moved the transfer petition in Tr.CMP(MD).No.148 of 2022 before the Madurai Bench of this Court, seeking transfer petition for divorce filed by the petitioner herein from the file of Subordinate Judge, Poonamallee, to Family Judge at Madurai, for joint trial along with her petition for restitution of conjugal rights and the same is pending. It was also submitted by the learned counsel for the respondent that this transfer application filed by the petitioner is only a counter blast to the transfer application filed by respondent/wife before Madurai Bench.

5. The learned counsel for the petitioner submitted that if these two proceedings initiated by the petitioner and respondent are allowed to go on separately, there is every likelihood of conflict of judicial verdicts. Therefore, in the interests of justice both the cases have to be clubbed together.

6. It is settled law that in cases involving matrimonial



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disputes, the convenience of the wife shall be given preference. In the case on hand, wife is residing at Bangalore and she is having parental home at Madurai. According to the respondent her widowed mother is residing at Madurai along with her sister. Therefore, it will be convenient for the respondent/wife to go to Madurai and attend the Court hearing by staying in parental home. Taking into consideration facts and circumstances of the case and the convenience of the petitioner/wife, HMOP.No.244 of 2022, pending on the file of the Subordinate Judge, Poonamallee, is withdrawn and transferred to the file of Family Court, Madurai, for joint trial along with HMOP.No.29 of 2022.

7. The Transfer Civil Miscellaneous Petition is disposed with the following directions:

(i) The petition for divorce filed by the petitioner/husband in HMOP.No.244 of 2022 pending on the file of the Subordinate Judge, Poonamallee is withdrawn and transferred to the Family Judge, Madurai for joint trial along with petition for restitution of conjugal rights filed by



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the respondent/wife in HMOP.No.29 of 2022.

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(ii) The learned counsel for the petitioner made a request that his personal appearance may be dispensed with. It is open to the petitioner to file an appropriate application before the Family Judge, Madurai, seeking dispensing with his personal appearance. If any such application is filed by the petitioner/husband, the same shall be considered by the Family Judge, Madurai, sympathetically. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2022

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Index: Yes/ No

Speaking Order / Non-Speaking Order

To



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1. The Family Judge, Madurai.
2. Subordinate Judge, Poonamallee.

S.SOUNTHAR, J.

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