

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P.No.306 of 2022

and

C.M.P.No.6223 of 2022

K.Vasanthakumar ... Petitioner/Respondent

Vs.

T.Sathiyavathi ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer the H.M.O.P.No.145 of 2021, pending on the file of the Subordinate Court, Harur to the Family Court, Salem and tried along with the H.M.O.P.No.159 of 2021 on the file of the Family Court, Salem.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.M.D.Thirunavukarasu

O R D E R

This petition has been preferred to withdraw H.M.O.P.No.145 of 2021 pending on the file of the Subordinate Court, Harur and transfer the same to the file of the Family Court, Salem to be tried along with H.M.O.P.No.159 of 2021.

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

3. The petitioner is the husband and respondent in H.M.O.P.No.145 of 2021. The said petition was filed by the respondent/wife before the learned Sub Judge, Harur for Restitution of Conjugal Rights. The petitioner/husband has also filed a divorce petition in H.M.O.P.No.159 of 2021 before the learned Judge, Family Court, Salem for dissolution of marriage. Now, the petitioner/husband has preferred the present petition to withdraw H.M.O.P.No.145 of 2021 pending on the file of the Subordinate Court, Harur and transfer the same to the file of Family Court, Salem to be tried along with H.M.O.P.No.159 of 2021.

4. The learned counsel for the petitioner submitted that the petitioner is working as a Assistant Manager in the Indian Bank, Thanjavur and he is having permanent address at Salem and that it is ery difficult for him to travel from Salem to Harur for attending the Court proceedings at Harur.

5. It is needless to state that in matrimonial proceedings, preference 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, 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]. In fact 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. In view of the above reasons, the prayer sought for by the petitioner/husband to transfer the case in H.M.O.P.No.145 of 2021 from the file of the Sub Court, Harur to the file of the Family Court, Salem should not be considered favourably.

6. In case the petitioner/husband finds it difficult to attend all the hearings before the Sub Court, Harur, he can make his appearance during those hearings through his counsel by getting leave from the Court. In view of the above stated reasons, the prayer sought by the petitioner cannot be granted.

7. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ms

To

1. The Judge,
Sub Court,
Harur.

2. The Judge,
Family Court,
Salem.

+1cc to M/s.M.D.Thirunavukkarasu, Advocate, S.R.No.38443

Tr.C.M.P.No.306 of 2022
and
C.M.P.No.6223 of 2022

PMK(CO)
UMA(12/07/2022)