



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.314 of 2022
and C.M.P.No.6340 of 2022

M.Ganesh Kumar

... Petitioner

..Vs..

Mahalakshmi

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw and transfer the divorce original petition in HMOP.No.1191 of 2021 on the file of Principal Family Judge at Chennai to the file of Family Court, Thoothukudi or any competent Court to try the same.

For Petitioner : Mr.M.I.Javid Akbar

For Respondent : Mr.M.Jaikumar

O R D E R

This petition is filed to withdraw and transfer the divorce original petition in HMOP.No.1191 of 2021 on the file of Principal Family Court at Chennai to the file of Family Court, Thoothukudi or any competent Court to try the same.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

3.The Petitioner is the husband and the respondent is the wife. The marriage between the petitioner and respondent was solemnized on 14.09.2016. The respondent/ wife filed a Petition for divorce before the Principal Family Court, Chennai in H.M.O.P.No.1191 of 2021. Now the petitioner/ husband had filed this Transfer Petition to transfer the HMOP.No.1191 of 2021 on the file of the Principal Family Court, Chennai to Family Court, Thoothukudi.

4. The learned counsel for the Petitioner submitted that the petitioner is doing business in Tuticorin and he cannot make himself present frequently for the proceedings pending at Chennai.



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 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. In view of the above reasons, I feel that the prayer of the petitioner cannot be considered favourably, since the respondent is staying at Chennai.

6. The Petitioner is at liberty to seek leave of the Court to make his appearance through his counsel, whenever he finds inconvenient to make personal appearance, by giving advance notice to the Respondent. Barring the same, I do not find any acceptable reasons for allowing this petition.

7. Hence, the Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dsa

To

1. The Principal Judge, Family Court, Chennai.

Tr.C.M.P. No.314 of 2022

RSV(CO)
SB(30/06/2022)