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Tr.C.M.P.No.313 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.313 of 2022
and C.M.P.Nos.6322 & 6323 of 2022

B.Manjunath

... Petitioner

..Vs..

B.Prathiba Lakshmi

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., pleaded to withdraw the case pending in H.M.O.P.No.335 of 2022 on the file of the Family Court, Coimbatore and transfer the same to the file of the Principal Family Court, Chennai.

For Petitioner : Ms.K.Sumathi

For Respondent : Mr.B.Gopalakrishnan

ORDER

This petition is filed to withdraw H.M.O.P.No.335 of 2022 pending on the file of the Family Court, Coimbatore and transfer the same to the file of the Principal Family Court, Chennai.



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2.Heard the learned counsel appearing for both the petitioner and the respondents 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 06.02.2012. Since, the relationship between the couples went bitter, the Respondent filed H.M.O.P.No.335 of 2022, on the file of the Family Court, Coimbatore, against the petitioner seeking divorce and custody of the minor son. Now, the petitioner herein who is the husband has preferred the present petition to withdraw H.M.O.P.No.335 of 2022 pending on the file of Family Court, Coimbatore and transfer the same to the Principal Family Court, Chennai.

4.It is submitted by the petitioner that he is a visiting surgeon and he is conducting liver transplantation in various hospitals across the States of India, hence it may not be possible for him to travel to



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Coimbatore to attend the matrimonial proceedings; he needs to be available in Chennai since the transplantation has to be done within six hours from the death of a donor; so the petitioner is constrained to file this petition to transfer the proceedings pending from Coimbatore to Chennai.

5.The couples have a minor child and he is in the custody of the respondent/wife. The petitioner has stated that he needs to travel across several places in connection with his profession. Even in case the matter is transfer to Chennai and if the petitioner happened to attend surgery anywhere else away from Chennai, it may not possible for him to appear before the Family Court, Chennai also.

6.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**



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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.335 of 2022 from the file of the Family Court, Coimbatore to the file of the Family Court, Chennai can not be considered favourably.

7.If the revision petitioner finds it inconvenient to attend any of the hearings, it is up to him to make his appearance through his counsel by seeking proper leave and giving advance notice to the respondent.



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8. Accordingly, the Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.06.2022

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Index: Yes/No

Speaking Order: Yes/No

To

1. The Judge, Family Court, Coimbatore.

2. The Judge, Principal Family Court, Chenani.

R.N.MANJULA, J.

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