



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.03.2022

CORAM

WEB COPY

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.Nos.382 & 423 of 2021
&
C.M.P.Nos.8779 & 10415 of 2021

Tr.C.M.P.No.382 of 2021:

Ilakkiya

...Petitioner

Vs

Subramanya Dhivakar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.77 of 2021 on the file of the Court of the Principal Sub Court, Kallakurichi and transfer the same to Family Court, Villupuram.

For Petitioner : Mr.R.Ganesan
for Mr.N.Mahendra Babu

For Respondent : Mr.S.Sounthar

Tr.C.M.P.No.423 of 2021:

Subramanya Dhivakar

...Petitioner

Vs

Abi @ Ilakkiya

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw O.P.No.116 of 2020 from the file of the Family Court, Villupuram and transfer the same to the file of Principal Sub Court, Kallakurichi for Trial along with H.M.O.P.No.77 of 2021.

For Petitioner : Mr.S.Sounthar

For Respondent : Mr.R.Ganesan
for Mr.N.Mahendra Babu



COMMON ORDER

This is a case of opposing sides filing concurrent transfer petitions. The parties are referred to as husband and wife for the ease of understanding.

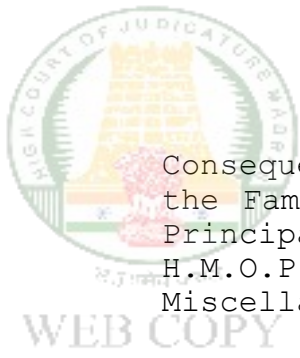
2. The respondent wife in the proceedings in H.M.O.P.No.77 of 2021 pending on the file of the Principal Subordinate Court, Kallakurichi has filed Tr.C.M.P.No.382 of 2021 seeking to transfer the proceedings in H.M.O.P.No.77 of 2021 to the file of the Family Court, Villupuram.

3. The husband on the other hand has filed Tr.C.M.P.No.423 of 2021 for transferring the petition filed by the wife in O.P.No.116 of 2020 on the file of the Family Court, Villupuram to the file of the Principal Subordinate Court, Kallakurichi to be tried along with H.M.O.P.No.77 of 2021.

4. O.P.No.116 of 2020 is filed by the wife seeking restitution of conjugal rights on the file of the Family Court, Villupuram. The husband on the other hand has filed H.M.O.P.No.77 of 2021 on the file of the Principal Subordinate Court, Kallakurichi. Each wants to have the proceedings filed by the other transferred to the Court, where, their respective proceeding is pending.

5. The learned counsel appearing for the respondent wife would submit that, earlier an application was moved by the husband to take up the issue of Jurisdiction as preliminary issue in O.P.No.116 of 2020. By order dated 26.10.2021, the learned Family Court Judge, Villupuram had held that the Villupuram had Jurisdiction to entertain H.M.O.P filed by the wife in O.P.No.116 of 2020. The distance between Kallakurichi and Villupuram is not too far. Further, it is to be noted that one proceedings is before the Family Court, where the presence of both the parties is imperative, whereas, the other proceedings is on the file of the Principal Subordinate Court, where the presence of parties are not mandatory. It would be in the interest of both the parties, if the proceedings are before the Principal Subordinate Court, Kallakurichi.

6. Therefore, the Transfer Civil Miscellaneous Petition filed by the wife in Tr.C.M.P.No.382 of 2021 is dismissed and Tr.C.M.P.No.423 of 2021 filed by the husband is allowed.



Consequently, O.P.No.116 of 2020 is withdrawn from the file of the Family Court, Villupuram and transferred to the file of the Principal Subordinate Court, Kallakurichi to be tried along with H.M.O.P.No.77 of 2021. Consequently, connected Civil Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To
1.The Judge,
Family Court, Villupuram.
2.The Judge,
Principal Subordinate Court, Kallakurichi.

+2 ccs to Mr.S.Sounthar, Advocate Sr.NO.16158,16157
+1 cc to Mr.N.Mahendra Babu, Advocate Sr.NO. 16036

Tr.C.M.P.Nos.382 & 423 of 2021

MT(CO)
A.SK(11/04/2022)