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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

TR.CMP.No.458 of 2022
and
CMP.No.8296 of 2022

M.Gopinath

...Petitioner

Vs.

V.Rekha

...Respondent

PRAYER: The Memorandum of Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.No.242 of 2018 and H.M.O.P.No.258 of 2017 on the file of the Subordinate Judge, Kanchipuram and the transfer the same to the file of the Family Court, Chengalpet.

For Petitioner : Mr.D.Ravichander

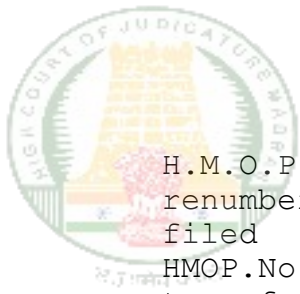
For Respondent : No appearance

ORDER

The petition has been preferred to withdraw the H.M.O.P.No.242 of 2018 and H.M.O.P.No.258 of 2017 on the file of the learned Subordinate Judge, Kanchipuram and transfer the same to the file of the Family Court, Chengalpet.

2. The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was solemnized on 01.12.2016 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the petitioner/husband, through his father, the Power of Attorney, filed FCOP.No.149/2017 before the Family court, Chengalpet, seeking for divorce against the respondent. The respondent/wife filed H.M.O.P.No.258/2017 before the Sub Court, Kanchipuram for restitution of conjugal rights.

3. It is seen that an order dated 06.07.2018, has already been passed in Tr.CMP.No.184/2018 for transferring FCOP.No.149/2017 from the file of the Family Court, Chengalpet to the file of the Sub Court, Kanchipuram to be tried along with



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H.M.O.P.No.258 of 2017. On transfer, FCOP.No.149/2017 got renumbered as H.M.O.P.No.242/2018. Now the petitioner has also filed a petition to withdraw HMOP.No.242/2018 and HMOP.No.258/2017 from the file of the Sub Court, Kanchipuram and transfer them to the Family Court, Chengalpet.

4. The learned counsel for the petitioner submitted that the order in the earlier Tr.CMP.No.184/2018 was passed taking into consideration the convenience of the respondent/wife, but, now the respondent has got an employment at abroad and hence she will not be affected if the matters are transferred to the Family Court, Chengalpet.

5. When the matters are already transferred and lying on the file of the Sub Court, Kanchipuram, another order contrary to the earlier order cannot be passed, especially, when this petitioner did not challenge the order passed in Tr.CMP.No.184/2018. Just because the respondent got an employment at abroad, it is her statutory right to maintain the petitioner where she resided at the time of filing the petition can not be taken away. Hence I find no merits to allow the petition as prayed for.

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

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Sub Court, Kanchipuram.

2.The Family Court, Chengalpet.

3.The Section Officer,
VR Section, Madras High Court, Chennai.

+1cc to Mr.D.Ravichander, Advocate SR. No. 36619

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SKM (CO)
PR (30/06/2022)