



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.C.M.P.No.513 of 2021

And

C.M.P.No. 13887 of 2021

Deepa

... Petitioner/Respondent

Vs.

Sivakumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, praying to withdraw the H.M.O.P.No. 26 of 2019 on the file of Subordinate Court, Omalur, Salem District and to transfer the same to Family Court, Salem, Salem District, by allowing this Transfer Petition.

For Petitioner : Mr. Premakumar
for M/s. Karan and Uday

For Respondent : Mr.B.Gopalakrishnan
for Mr.D.Kumarasamy

O R D E R

The petitioner/wife seeks transfer of H.M.O.P.No. 26 of 2019 on the file of Sub-Court, Omalur, Salem District to the file of Family Court, Salem, to be heard along with H.M.O.P.No. 154 of 2020 pending on the file of Family Court, Salem.

2. Ostensibly the transfer is sought for mainly on the ground of convenience of wife, actually it is to cause inconvenience to the husband by making him to appear before the Family Court for every hearing.

3. It is clear from the dates that the petition in H.M.O.P.No. 154 of 2020 filed before the Family Court at Salem, seeking restitution of conjugal rights as a counter blast to the petition filed by the husband seeking dissolution of marriage in H.M.O.P.No. 26 of 2019. H.M.O.P.No. 26 of 2019 was filed on 04.03.2019 on the file of Sub Court, Oamlur. The respondent



therein/wife filed counter on 08.06.2019 and the husband had filed his proof affidavit on 19.07.2019. Thus, the trial in H.M.O.P.No. 26 of 2019 had commenced on 19.07.2019. Nearly after a year on 08.07.2020, the petitioner/wife had filed H.M.O.P.No. 154 of 2020 on the file of Family Court, Salem, only with a view to drag the husband to Family Court at Salem. The distance between Omalur and Salem is not even 15 kms.

4. The wife is a resident of Salem and H.M.O.P.No. 26 of 2019 pending on the file of Sub Court, Omalur, where the appearance of the parties is not required for every hearing. The parties can appear through counsel. I therefore do not see any reason to entertain this Petition for transfer. However, in order to prevent conflict of judicial verdicts, H.M.O.P.No. 154 of 2020 is withdrawn from the file of Family Court, Salem and transferred to the file of Sub Court, Omalur, to be tried and disposed of along with H.M.O.P.No. 26 of 2019.

5. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vsg

To

1.The Judge, Family Court,
Salem, Salem District.

2.The Judge, Subordinate Court,
Omalur, Salem District.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.67

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And

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PMK(CO)
CB(01/02/2022)