



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM

THE HON'BLE MS.JUSTICE P.T.ASHA

TR. C.M.P.NO.812 OF 2021

AND

C.M.P.NO.18823 OF 2021

Mr.A.Sudhakar

... Petitioner

Vs

Mrs.Buvaneshwari

... Respondent

PRAYER :

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908 to withdraw the H.M.O.P.No.55 of 2021 pending on the file of the Subordinate Court, Mudukulathur at Ramanathapuram District and transfer the same to the file of the Subordinate Court, Poonamallee.

For Petitioner : Ms.R.Revathi

For Respondent : Served - No Appearance

ORDER

The husband has filed this petition seeking transfer of the proceedings in H.M.O.P.No.55 of 2021 pending on the file of the Subordinate Court, Mudukulathur to the file of the Subordinate Court, Poonamallee.

2. H.M.O.P.No.55 of 2021 has been filed by the respondent/wife for divorce and the husband had filed a similar petition in H.M.O.P.No.605 of 2021 on the file of the Subordinate Court, Poonamallee.

3. The petitioner has filed this application for transfer on the ground that he has been assaulted physically and threatened by the respondent and her people. The petitioner would further



submit after the wife had filed the petition for divorce, he had tried to approach her and get the petition converted into one for the dissolution of marriage at mutual consent. However, the reasons best known, she had refused the said offer and on the contrary, her people had threatened his life on 06.10.2021, when he had gone to attend one of the hearing at Mudukulathur.

4. Even in her application filed, the respondent/wife has contended that she had left the matrimonial house on 02.04.2021 voluntarily. The respondent has been served and initially the counsel had represented that he had filed the vakalat, but thereafter, the counsel has not appeared.

5. It is seen that the petition filed by the petitioner herein was numbered at the earlier point of time. Though the respondent's affidavit would show that it is earlier in point of time, however a perusal of the summons in the petition filed by the wife would show that it had been sent only on 16.08.2021, whereas the petitioner's application for divorce had been registered earlier in the month of July, 2021.

6. Heard the counsel who had set out the very same contention as found in the affidavit filed in support of the transfer Civil Miscellaneous Petition.

7. The matter is now pending before the Subordinate Court at Mudukulathur, which is the home town of the respondent/wife. The petitioner has narrated that he has already been subjected to physical abuse, when he had appeared before the Subordinate Court at Mudukulathur on 06.10.2021 and this fact stands uncontroverted.

8. It is his contention that the petitioner has submitted that the respondent/wife is surrounded by persons, who are ready to flex their muscles at the drop of the hat and therefore, he fears for his physical safety at Mudukulathur. The respondent though served has not appeared before the Court to refute the said statement despite the fact that a counsel had represented her. Taking into account the fact that the transfer is sought only to a Subordinate Court, where the presence of parties are not required and taking into account the genuine apprehension of the petitioner/husband, this transfer Civil Miscellaneous Petition has to be allowed.



9. Accordingly, the Tr.C.M.P is allowed and H.M.O.P.No.55 of 2021 is withdrawn from the file of the Subordinate Court, Mudukulathur at Ramanathapuram District and shall stand transferred to the file of the Subordinate Court, Poonamallee. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ab/ssn

To

1. The Subordinate Court,
Mudukulathur,
Ramanathapuram District.
2. The Subordinate Court,
Poonamallee.
3. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Ms.R.Revathi, Advocate, S.R.No.20278

Tr. C.M.P.No.812 of 2021
and
C.M.P.No.18823 of 2021

RSV(CO)
PM/19/04/2022