



Tr.CMP.No.939 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

TR.C.M.P.No.939 of 2022

and

C.M.P.Nos.16098 and 16099 of 2022

R.Ramya

... Petitioner

Vs.

I.Praveen Kumar David

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition under Section 24 of Civil Procedure Code to withdraw the I.D.O.P.No.21 of 2017 pending on the file of the Family Court, Erode transfer and to try or dispose of the same along with D.O.P.No.112 of 2018 and M.C.No.22 of 2018 pending on the file of the Additional Family Court, Coimbatore, within the time limit.

For Petitioner : M/s.R.Baskaradoss

For Respondent : M/s.C.S.Dhanasekaran

ORDER

This transfer petition is filed seeking transfer of petition for divorce filed by respondent/husband in I.D.O.P.No.21 of 2017 from the Family Court, Erode to the Additional Family Court, Coimbatore.



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2. According to the petitioner/wife, she is residing at Coimbatore, she also instituted a petition for restitution of conjugal rights in D.O.P.No.112 of 2018 and Maintenance Case in M.C.No.22 of 2018 on the file of the Family Court, Coimbatore.

3. The learned counsel for the respondent denied averments found in the petitioner's affidavit to the effect that the respondent's father was a practicing advocate at Erode and if the case is allowed to go on before the Family Court, Erode, petitioner might not get justice. It was also stated by the respondent that the petitioner is not entitled to seek transfer based on unsubstantiated allegations against the father of the respondent.

4. This Court is not inclined to consider the allegations made by the petitioner against the father of the respondent who is not a party to this petition.

5. It is settled law that in cases involving matrimonial dispute, the preference shall be given to the convenience of the petitioner/wife.

6. In the present case wife is residing at Coimbatore, and he had already instituted petition for restitution of conjugal rights and also filed a petition seeking



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maintenance. Issue involved in the petition filed by the wife seeking restitution of conjugal rights and petition filed by respondent/husband seeking divorce are one and the same. Further, if these two petitions filed by the parties are allowed to go before two different Courts, there will be a likelihood of conflict of judicial verdicts. Hence in the interest of justice, these two cases shall be tried together in a same Court. Therefore, this Court is inclined to order the above transfer petition.

7. This Transfer Civil Miscellaneous petition is allowed. The petition filed in I.D.O.P.No.21 of 2017 pending on the file of the Family Court, Erode is withdrawn and transferred to the Family Court, Coimbatore for joint trial along with D.O.P.No.112 of 2018. It is also made clear that M.C.No.22 of 2018 shall be heard simultaneously along with I.D.O.P.No.21 of 2017 and D.O.P.No.112 of 2018. Taking into consideration the petition for divorce filed by husband is of the year 2017, this Court is inclined to issue a direction the Court below to dispose of the main O.Ps within a period of nine months from the date of receipt of original records from the transferor Court. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/ No

Speaking Order / Non-Speaking Order

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S.SOUNTHAR, J.

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To

1.The Family Court,
Erode.

2.The Additional Family Court,
Coimbatore.

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