



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

Tr.C.M.P(MD)No.352 of 2023

and

C.M.P.(MD).No.7513 of 2023

V.Lokesh Kumar

... Petitioner/
Respondent

Vs.

S.Visalakshi

... Respondent/
Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.188 of 2021 on the file of the Sub Court, Thirumangalam, Madurai District and to transfer the same to the Family Court, Madurai.

For Petitioner :Mr.L.George Paul Anto

For Respondent :Mr.M.Jeyaprakash

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.188 of 2021 on the file of the Sub Court, Thirumangalam, Madurai District and to transfer the same to the Family Court, Madurai.



2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and also perused the materials available on record.

3. The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 16.09.2019. Due to some misunderstanding arose between them, the petitioner filed M.C.No.3548 of 2021 before the Principal Family Court, Bengaluru, for divorce. Pursuant to which, the respondent/wife filed transfer petition(s) (Civil) No(s).1196 of 2022 before the Hon'ble Supreme Court, to transfer the M.C.No.3548 of 2021. The said petition was allowed on 19.10.2022 and the case has been transferred to the Family Court, Madurai and renumbered as H.M.O.P.No.1417 of 2022 and the same is pending.

4. In such circumstances, the respondent/wife has filed M.C.No.6 of 2022 before the Additional Chief Judicial Magistrate, Madurai, for restitution of conjugal rights and the same is pending.

5. The learned counsel appearing for the petitioner submitted that if both the cases are tried before different Courts, it will be inconvenience to him. Hence, he prays for transferring the case. When two or more proceedings are pending in different Courts between the same parties which



raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same judge so as to avoid multiplicity in trial of the same issues and conflict of decisions **(2022 LiveLaw (SC) 627 in N.C.V.Aishwarya-vs-A.S.Saravana Karthik Sha)**

6.In view of the above, this Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P.No.188 of 2021 pending on the file of the Subordinate Court, Thirumangalam, Madurai, is ordered to be withdrawn and transferred to the file of the Family Court, Madurai. The learned Subordinate Judge, Thirumangalam, Madurai, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.188 of 2021 to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. The Registry is also directed to send back the papers that are pending before the Registry, if any.

7.Considering the submission of the learned counsel for the petitioner, this Court directs the Family Court, Madurai, to dispose the H.M.O.P on merits and in accordance with law, within a period of three months therefrom. No costs. Consequently, the connected miscellaneous petition is closed.

07.08.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No



K.GOVINDARAJAN THILAKAVADI, J.

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To

- 1.The Family Court,
Madurai.
- 2.The Sub-Court,
Thirumangalam,
Madurai District.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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