



Tr CMP.No.638 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2024

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr CMP.No.638 of 2024 &
CMP.No.13617 of 2024

Ananda Kumar : Petitioner

versus

Vinothini : Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw the case in HMOP.No.68 of 2021 on the file of the Family Court, Mannarkudi, Tiruvarur District and transfer the same to the Family Court, Thiruchirapalli to be tried along with HMOP.No.679 of 2022.

For Petitioner : Mr.M.Vijaya Ragavan

For Respondent : Mr.T.R.Udayakumar

ORDER

The petitioner is the husband. He married the respondent on



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17.09.2003. From the wedlock, two sons were born. One son is aged about 20 years and the other son is 9 years. The parties separated on 26.08.2017. The wife initiated a proceeding for divorce in HMOP.No.152 of 2017 before the Sub Court at Mannarkudi. Due to the creation of the Family Court at Mannarkudi, the said proceeding was withdrawn from the file of the Sub Court and transferred to the file of the Family Court at Mannarkudi and renumbered as HMOP.No.68 of 2021 and it is posted for trial.

2. Five years after the proceeding was initiated at Mannarkudi, the husband has filed a proceeding for restitution of conjugal rights in HMOP.No.679 of 2022 on the file of the Family Court at Thiruchirapalli. He pleads that on 02.10.2021, he met with an accident and has suffered injuries. Hence, he seeks for transfer of the proceeding on medical ground.

3. Notice was ordered in this application on 16.07.2024. The respondent has entered appearance through Mr.T.R.Udayakumar.

4. I have heard Mr.M.Vijaya Ragavan and Mr.T.R.Udayakumar for



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the respective parties.

5. It is not in dispute that the husband is working as an Inspector of Police with the District Police Office at Trichy. It is further not in dispute that the wife is taking care of two sons, of whom one is a minor aged about 9 years.

6. If I were to accede to the request of the transfer petitioner and transfer the proceeding from Mannarkudi to Trichirapalli, the respondent will be put to serious loss and prejudice. She would have to leave the minor son behind at Mannarkudi and travel to Trichirapalli, since both the towns being separated by considerable distance. Furthermore, one being a proceeding for divorce and the other being a proceeding for restitution of conjugal rights, they have to be disposed of by a common Judgment.

7. Therefore, while considering the transfer application, I am not inclined to grant the relief that the petitioner wants. The proceeding, having been initiated at Mannarkudi, at least five years before the husband initiated



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the restitution proceeding, the proceeding initiated at Trichirapalli will have to be transferred to Mannarkudi. Accordingly, HMOP.No.679 of 2021 on the file of the Family Court at Trichirapalli is withdrawn and is transferred to the file of the Family Court at Mannarkudi to be heard and disposed of along with HMOP.No.68 of 2021.

8. Considering the plea of the husband that he is not physically doing well, he need not appear for every hearing before the Family Court at Mannarkudi. He shall be represented by a counsel on all hearing dates. On hearing dates in which his presence is essential, he shall present himself.

9. With the above directions regarding appearance of the petitioner, this transfer civil miscellaneous petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order/Non speaking order

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Neutral Citation : Yes/No

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To

1.The Family Court, Mannarkudi, Tiruvarur District

2.The Family Court Campus, Thiruchirapalli



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V.LAKSHMINARAYANAN, J.

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