



Tr.C.M.P.No.687 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 06.09.2024

CORAM :

**THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

Tr.C.M.P.No.687 of 2024  
and C.M.P.No.14940 of 2024

S.T.Chandrasekar

.. Petitioner

**Versus**

Sivaranjani

.. Respondent

**Prayer :** Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw and transfer the case in H.M.O.P.No.86 of 2018 pending on the file of the Sub-Court, Thiruvarur to the file of the Family Court, Cuddalore having jurisdiction to try the same.

For Petitioner : Mr.Selvasekaran.V.C

For Respondent : Mr.M.Thamilavel

**ORDER**

This petition is at the instance of the husband.

2. The wife initiated H.M.O.P.No.86 of 2018 on the file of the learned Subordinate Judge, Thiruvarur seeking for restitution of conjugal rights.

The husband pleads that he had initiated a proceeding prior to this for



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divorce in H.M.O.P.No.32 of 2018 before the Family Court, Cuddalore. It transpires that the said proceeding resulted in an *ex parte* decree. Against which, an appeal is pending before this Court in C.M.A.No.1623 of 2021.

3. When the proceedings initiated by the husband are in such a status, H.M.O.P.No.86 of 2018 was taken up for trial. There is no dispute that the petitioner's side evidence is over and it is listed for the respondent's side evidence. On 07.06.2024, the husband was examined in chief. The allegation, made by the petitioner, is that the husband was directed by the learned Judge to take the wife and child to Chennai and since the petitioner was resisting the same, the learned Judge eschewed his evidence on 14.06.2024 and also closed the evidence of the respondent and posted for arguments.

4. Heard Mr.V.C.Selvasekaran, learned Counsel for the petitioner and Mr.M.Thamilavel, learned Counsel for the respondent.

5. Mr.M.Thamilvel would submit that the proceedings are in advance stage and for the mere fact that the learned Judge had suggested a



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settlement, it does not mean that the proceedings should be transferred out of the Court.

6. Mr.V.C.Selvasekaran would state that since he is benefited with an order of divorce, the view taken by the learned Judge is erroneous.

7. Be that as it may, since the learned Judge has only suggested a course of restoration of matrimonial status between the parties, he only attempted for a kind of mediation which can be expected from a judicial officer during the course of matrimonial proceedings. Therefore, I will not take a serious note of this fact and transfer the petition out of the Court, especially, when the same is at advance stage of trial.

8. I have to take note of the fact that the evidence of R.W.1 was eschewed by the learned Judge on 14.06.2024. If that is the situation, it will seriously prejudice the petitioner. Therefore, the learned Judge is directed to restore the evidence given by the petitioner on 07.06.2024 and proceed further with the petition. He shall permit the respondent/wife to cross-examine him on 19.09.2024.



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9. Mr.M.Thamilvel states that he is ready with the cross-examination and he shall complete the examination by 27.09.2024. Once the respondent endorses that there is no evidence on his side, the Court shall proceed to enter upon the order.

10. With the above observations, this Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.09.2024

Index : yes/no  
Speaking order/Non-speaking order  
Neutral Citation : yes/no  
grs

To

1. The Sub-Court,  
Thiruvarur.
2. The Family Court,  
Cuddalore.



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**V.LAKSHMINARAYANAN, J.**

grs

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