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Tr.CMP.Nos.776 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.02.2024

PRONOUNCED ON : 15.03.2024

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Tr.CMP.Nos.776 & 463 of 2023

and

CMP.Nos.18914 &10635 of 2023

R.Radhika	...	Petitioner in both cases
	vs.	
G.Ramesh Babu	...	Respondent in both cases

COMMON PRAYER : This Transfer civil miscellaneous petitions have been filed under Section 151 CPC to withdraw and transfer O.P.Nos.3490 & 3980 of 2019 on the file of the Principal Family Court, Chennai to Additional Family Court at Chennai.

For Petitioner in both cases	...	Mr.V.K.Bhuvaneshwar for Mr.M.Vijaya Kumar
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For Respondent in ... both cases	Mr.M.Saral
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ORDER

These Transfers Civil Miscellaneous Petitions have been filed to withdraw and transfer O.P.Nos.3490 & 3980 of 2019 on the file of the Principal Family Court, Chennai to Additional Family Court at Chennai.



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2. In Transfer CMP.No.776 of 2023, the petitioner/wife has filed a petition in H.M.O.P.No.3490 of 2019 on the file of the Family Court at Chennai for Restitution of Conjugal Rights and in Transfer CMP.No.463 of 2023, the petitioner/wife is the respondent in H.M.O.P.No.3980 of 2019, which was filed by the respondent/husband, on the file of the Principal Family Court, Chennai for Divorce. Both the petitions are pending on the file of the Principal Family Court, Chennai. Now, the petitioner/wife seeking to transfer both the cases to any Additional Family Court, Chennai on the ground that the learned Principal Judge of the Court expressed dissatisfaction against the petitioner's irrespective of the proceedings and stage of the case. In this regard, a remarks has been called for from the learned Principal Judge, Principal Family Court, Chennai and the learned Principal Judge, submitted the following the remarks that

“the OP 3980/2019 transferred from Subordinate Court, Tambaram to this Court and tried along with OP 3490/2019. The OP 3980/2019 transferred in the stage of re-call of PW1 and PW2 for cross examination. PW1 cross completed on 7.12.2021. I.A.No.4/2022 filed on 14.2.2022 to appoint



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Advocate Commissioner to cross examination of PW2 and the same was allowed on 18.4.2022. The petitioner preferred a revision before Hon'ble High Court and modified order passed and petition closed on 18.3.2023 and posted for respondent's side evidence. On 27.4.2023 proof affidavit filed by RW1 and posted for RW1 cross. On 21.7.2023 the petitioner/wife filed a memo stating that Tr.CMP pending. Till the day, the cases pending in the stage of RW1 cross. OP 3490 of 2019 filed by the wife and the said OP call along with OP 3980/2019. In 3490/2019, on 20.11.2019 counter filed along with documents. On 16.3.2020 mediation was initiated by the Hon'ble High Court and for reporting settlement till 2.3.2023. On 18.3.2023 posted for enquiry on 5.4.2023. On 5.4.2023 enquiry LC NFA on 17.4.2023. On 17.4.2023 both parties present at 11.40 am at request petitioner pass over taken up 1.10pm. Petitioner absent respondent present pass over taken up 3.10 pm petitioner absent, respondent present, hence OP 3490 /2019 as dismissed for default. The petitioner/wife filed IA 2/2023 in OP 3490/2019 on 18.4.2023. In that petition, the petitioner



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stated that “There are orders passed by this Court against me. Therefore, I was forced to file civil revision petition against the said orders in a three different revision petitions on various occasions before the Hon'ble High Court of Madras. I have noticed in the open Court that there is dissatisfaction of this Court on every occasion continuously. Hence, I have lost my confidence before this Court for conducting the above said two cases. Therefore, I have mentioned in open Court on 17.4.2023 at calling of the cases that to transfer both the cases to any other court administratively and the Court permitted me to file a petition for transfer and pass over”. The said IA was taken on file on 18.4.2023 and notice was ordered without any delay and after enquiry on both side, order was pronounced on 13.07.2023 in IA 2 /2023. Now the OP 3490/2019 in the stage of marking of document and cross of PW1. OP 3980/2019 in the stage of cross of RW1.”

3.Considering the remarks of the learned Principal Judge, Principal Family Court, Chennai, the apprehension of the petitioner that she has lost



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her confidence before the learned Principal Judge for conducting her case is only an assumption. Transfer to be made only in the interest of justice and not to satisfy a litigant. Valid and sufficient reasons must exist to transfer a case, mere presumption on plausible apprehension is not sufficient. Therefore, I find no valid ground for transferring the cases from the file of the Principal Family Court, Chennai to Additional Family Court, Chennai. I find no merit in the transfer civil miscellaneous petitions.

In the result, the transfer civil miscellaneous petitions are Dismissed.

No costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No

15.03.2024

Internet : Yes/No

sms

To

1.The Principal Family Court,
Chennai.

2.Additional Family Court,
Chennai.



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V.SIVAGNANAM ,J.

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