



WEB COPY



Tr.CMP.Nos.886 of 2023 and 55 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.Nos.886 of 2023 and 55 of 2024

V.Muthukumar

Petitioner-Tr.CMP.886/2023
Respondent-Tr.CMP.55/2024

Vs

Deepika

Respondent-Tr.CMP.886/2023
Petitioner-Tr.CMP.55/2024

Prayer:- These Transfer Civil Miscellaneous Petitions have been filed, (1) to withdraw HMOP.No.94 of 2023, pending on the file of the Additional Family Court at Coimbatore and transfer the same to the file of the VI Additional Family Court, Chennai and (2) to withdraw HMOP.No.2107 of 2023, pending on the file of the VI Additional Family Court at Chennai and transfer the same to the file of the Family Court, Coimbatore and to conduct a joint trial along with HMOP.No.94 of 2023 respectively.

For Petitioner : Mr.M.Soundar Vijay Arul Ram

For Respondent : Mr.M.Muruganantham

COMMON ORDER

1. Tr.CMP.No.886 of 2023 has been filed by the husband to withdraw HMOP.No.94 of 2023 filed by the wife pending on the file of the Family Court at Coimbatore and transfer the same to the file of the VI Additional Family Court, Chennai. Tr.CMP.No.55 of 2024 has been filed by the wife to withdraw HMOP.No.2107 of 2023 filed by the husband, pending on the file of the VI Additional Family Court at Chennai and transfer the same to the file of



Tr.CMP.Nos.886 of 2023 and 55 of 2024

the Family Court, Coimbatore.

2. Deepika is the wife of V.Muthukumar and there is no dispute about their relationship. The wife claims that she is residing at Ganapathy, Coimbatore. The husband is admittedly residing at Egattur, OMR, Chennai.
3. The wife has filed HMOP.No.94 of 2023 before the Family Court, Coimbatore, for divorce. The husband has initiated proceedings in HMOP.No.2107 of 2023 on the file of the Family Court, Chennai, seeking for restitution of conjugal rights. In proceedings like these, both the Petition for restitution of conjugal rights and the Petition for divorce have to be heard and decided by the same Court. Apart from that, the Court has also take into consideration the convenience of the wife, which is the paramount consideration under the Hindu Marriage Act.
4. The learned counsel for the wife would point out that insofar as the convenience of the parties is concerned, while the wife is in Coimbatore, this Court had directed the husband to appear before the Judicial Magistrate (Special Court for Domestic Violence Cases Court)) at Coimbatore in order to contest the proceedings in DVA.No.21 of 2023 and he is appearing as directed. As the husband is already appearing in Coimbatore for the hearing in the said DVA proceedings, I do not find any necessity to drag the wife from Coimbatore to Chennai for the purpose of dealing with the matter before the VI Additional Family Court, Chennai. Hence, this Court is inclined to allow the Tr.CMP filed by the wife and to dismiss the Tr.CMP filed by the husband
5. In fine, Tr.CMP.No.886 of 2023 filed by the husband is dismissed.



Tr.CMP.Nos.886 of 2023 and 55 of 2024

Tr.CMP.No.55 of 2024 filed by the wife is allowed as prayed for.

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Consequently, HMOP.No.2107 of 2023 pending on the file of the VI Additional Family Court, Chennai is withdrawn and transferred to the file of the Family Court at Coimbatore, to be heard and disposed of along with HMOP.No.94 of 2023. The Family Court at Coimbatore is directed to hear both the cases on the same days when the said DVA Case is listed in order to obviate the difficulty that will be caused to the husband by travelling from Chennai to Coimbatore. The Family Court shall not insist upon the presence of the husband for every hearing and he shall be present for every hearing where his presence is indispensable. For all other hearing, the Court may permit the husband to appear through a counsel.

26.04.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
Srcm

To

1. The Additional Family Court at Coimbatore
2. The VI Additional Family Court at Chennai



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Tr.CMP.Nos.886 of 2023 and 55 of 2024

V.LAKSHMINARAYANAN, J.

Srcm

Tr.CMP.Nos.886 of 2023
and 55 of 2024

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