



Tr.C.M.P.(MD)Nos.561 and 604 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)Nos.561 and 604 of 2024
and C.M.P.(MD)Nos.13338 and 14140 of 2024

A.Sitharanjan

... Petitioner in both
the petition

Vs.

K.Aarthi

... Respondent in
both the petition

Prayer in Tr.C.M.P.(MD)No.561 of 2024 : The Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw and to transfer the Restitution of Conjugal right petition in H.M.O.P.No.143 of 2024 on the file of the learned Sub Court, Sankarankovil, Tenkasi District to learned Family Court, Theni based on the order passed in Tr.C.M.P.(MD)No.330 of 2024 dated 09.07.2024.

Prayer in Tr.C.M.P.(MD)No.604 of 2024 : The Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw and to transfer the maintenance case in M.C.No.11 of 2024 on the file of the learned Judicial Magistrate Court, Sivagiri, Tenkasi District to Family Court, Theni based on the order passed in Tr.C.M.P.(MD)No.330 of 2024 dated 09.07.2024.



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(in both the petition)

For Petitioner : Mr.S.Vanchinathan

For Respondent : Mr.R.Saravanan

COMMON ORDER

The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD)No.561 of 2024 is filed to withdraw the case on the file of the Subordinate Court, Sankarankovil, Tenkasi District, in H.M.O.P.No.143 of 2024 and transfer the same to the file of the Family Court, Theni, based on the order passed in Tr.C.M.P.(MD)No.330 of 2024 dated 09.07.2024.

2. The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD)No. 604 of 2024 is filed to withdraw the case on the file of the Judicial Magistrate Court, Sivagiri, Tenkasi District, in M.C.No.11 of 2024 and transfer the same to the file of the Family Court, Theni, based on the order passed in Tr.C.M.P.(MD)No.330 of 2024 dated 09.07.2024.

3. It is evident from the records that marriage between the petitioner and the respondent was solemnized on 20.08.2021. It is not in dispute that the petitioner has filed a petition in O.P.No.904 of 2022 seeking divorce



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and the same is pending on the file of the Family Court, Theni. It is also not in dispute that the respondent has filed a petition in H.M.O.P.No.143 of 2024 seeking restitution of conjugal rights and the same is pending on the file of the Subordinate Court, Sankarankovil and that the respondent has also filed a maintenance case in M.C.No.11 of 2024 and the same is pending on the file of the Judicial Magistrate Court, Sivagiri, Tenkasi District.

4. It is evident from the records that the respondent has earlier filed a transfer petition in Tr.C.M.P.(MD)No.330 of 2024 seeking orders to withdraw the case in O.P.No.904 of 2022 pending on the file of the Family Court, Theni and transfer the same to the file of the Family Court, Tenkasi and this Court vide order dated 09.07.2024 by permitting the respondent herein to appear through video conferencing, directed the Family Court to proceed with the trial and disposed of the petition. It is not in dispute that the respondent has preferred a SLP before the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No(s).44156 of 2024 and the same was ordered to be dismissed on 05.11.2024 and that subsequently the petitioner has filed the present transfer petitions seeking transfer of the



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restitution petition in H.M.O.P.No.143 of 2024 and maintenance case in M.C.No.11 of 2024 to the file of the Family Court, Theni, where the divorce petition in O.P.No.904 of 2022 is pending already.

5. When the matter is taken up for hearing today, the learned counsel appearing for the respondent would submit that they are not having any objection to transfer the case and to have a joint trial with the case in H.M.O.P.No.904 of 2022.

6. The learned counsel appearing for the petitioner would submit that in O.P.No.904 of 2022, trial has already been commenced.

7. Considering the above facts and circumstances and also taking note of the submissions made on either side, this Court is of the view that the case in H.M.O.P.No.143 of 2024 is ordered to be withdrawn from the file of the Subordinate Court, Sankarankovil, Tenkasi District and the case in M.C.No.11 of 2024 is ordered to be withdrawn from the file of the Judicial Magistrate Court, Sivagiri, Tenkasi District, and transfer the same to the file of the Family Court, Theni. Accordingly, the learned



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Subordinate Judge, Sankarankovil, Tenkasi District, is hereby directed to transmit the entire records in H.M.O.P.No.143 of 2024 and the learned Judicial Magistrate, Sivagiri, Tenkasi District, is hereby directed to transmit the entire records in M.C.No.11 of 2024 to the file of the Family Court, Theni, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundles, the learned Judge, Family Court, Theni, are directed to take up the petitions on file and proceed in accordance with law.

8. In case, in O.P.No.904 of 2022, trial has already been commenced, the learned Judge, Family Court, Theni is directed to conduct trial simultaneously in O.P.No.904 of 2022 and H.M.O.P.No.143 of 2024 and if not commenced, conduct joint trial of both the cases.

9. With the above direction, these Transfer Civil Miscellaneous Petitions stand allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

09.12.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

csn

To

1. The Judicial Magistrate,
Sivagiri, Tenkasi District.
2. The Subordinate Judge,
Sankarankovil, Tenkasi District/
3. The Judge, Family Court,
Theni.
4. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Common Order made in
Tr.C.M.P.(MD)Nos.561 and 604 of 2024
and
C.M.P.(MD)Nos.13338 and 14140 of 2024

Dated : 09.12.2024