



CMP(MD) No.13466 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Third day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMP(MD) No.13466 of 2023

IN

TR CMP(MD) No.223 of 2022

JEGADEESH

... PETITIONER/RESPONDENT

Vs

LAKSHMI PRIYA

... RESPONDENT/PETITIONER

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 168 days in filing the set aside application to set aside the ex-parte order dated 27.02.2023 passed by this Court in Tr.C.M.P(MD)No.223 of 2022 and pass appropriate order as deem fit and proper in the circumstances of the case and thus render justice.

Prayer in TR CMP(MD). 223/ 2022 :

To withdraw the HMOP.No.28 of 2020 pending and transfer the same to the file of the learned Sub Court,Lagudi, Trichy District and transfer the same to the file of the Learned Sub Court, Kovilpatti Tuticorin District and tried along with HMOP.NO.147 of 2020 and pass such further or other order as this Honble Court may deem fit and proper in the circumstances of this and thus render justice.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.T.LENIN KUMAR, Advocate for the petitioner and of MR.S.RAJESH KANNAN, Advocate on behalf of the Respondent, the court made the following order:-



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The present Transfer Civil Miscellaneous Petition in TR.C.M.P(MD)No.223 of 2022 was filed by the wife seeking to transfer H.M.O.P.No.28 of 2020 pending on the file of the Sub Court, Lalgudi, which was filed by the husband, to be transferred to Sub Court, Kovilpatti. According to the wife, she had filed H.M.O.P.No.147 of 2020 for restitution of conjugal rights before the Sub Court, Kovilpatti. After issuance of notice, since there was no representation on the side of the husband, Transfer C.M.P was allowed on 27.02.2023.

2. The present application in C.M.P(MD)No.13466 of 2023 has been filed by the husband seeking to set aside the ex parte order on the ground that, he could not engage a Counsel before this Court on 27.02.2023. He had further contended that he is a permanent resident of Kerala and therefore, the petitions pending before the Sub Court, Kovilpatti may be directed to be disposed of as expeditiously as possible.

3. Considering the fact that the wife had filed a restitution petition and the husband had filed a divorce petition, both petitions have to be heard together and therefore, this Court is not inclined to interfere in the order, dated 27.02.2023 transferring H.M.O.P.No.28 of 2020 from Sub Court, Lalgudi to Sub Court, Kovilpatti.



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However, considering the fact that husband is a permanent resident of Kerala, there shall be a direction to the Sub Court, Kovilpatti to dispose of both the H.M.O.P's [H.M.O.P.Nos.28 and 147 of 2020] as expeditiously as possible on or before 30.11.2024.

4. With the above said observation, this Civil Miscellaneous Petition stands disposed of. There shall be no order as to costs.

sd/-
23/04/2024

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/04/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

btr

TO

1.THE SUBORDINATE JUDGE,LAGUDI, TRICHY DISTRICT

2.THE SUBORDINATE JUDGE, KOVILPATTI TUTICORIN DISTRICT

ORDER

IN

CMP(MD) No.13466 of 2023

IN

TR CMP(MD) No.223 of 2022

Date :23/04/2024

RK/VR (26/04/2024) 3P / 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023