



WEB COPY



Tr.C.M.P.(MD).No.705 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Tr.C.M.P.(MD).No.705 of 2023
and C.M.P.(MD).No.15838 of 2023

A.Abubakkarsithik
represented to his Power Agent
M.Sheik Davoodu

... Petitioner/Defendant

Vs.

Abibu Nisha

... Respondent/Plaintiff

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to pass order to withdraw the O.S.No.61 of 2023 on the file of the District Munsif Court at Thirupathur and transfer the same to the Family Court of Sivagangai and to try along with O.S.No. 10 of 2023 on the file of the Family Court of Sivagangai.

For Petitioner : Mr.A.Haja Mohideen

For Respondent : Mr.V.George Raja for
M/s.Ajmal Associates

ORDER

This petition has been filed seeking transfer of O.S.No.61 of 2023 from the file of the District Munsif, Thirupathur to the file of the Family



Tr.C.M.P.(MD).No.705 of 2023

Court, Sivagangai to try along with O.S.No.10 of 2023.

WEB COPY

2.The facts in brief:

It is a matrimonial dispute between the parties. Their marriage was solemnized on 11.11.2007. At the time of marriage, the parents of the respondent gave 80 sovereigns of jewels along with sreethana articles. Out of their wedlock they got two children. After that there was misunderstanding between the parties. So the petitioner pronounced Talaqs in the presence of two witnesses. After receiving two Talaqs notices, the respondent did not receive the third notice. Thereafter, the petitioner filed a suit in O.S.No.10 of 2023 on the file of the Family Court, Sivagangai, seeking declaration to declare that the marriage dated 11.11.2007 held between the respondent and his husband was dissolved, consequently, restraining the respondent by way of permanent injunction from claiming as his wife. In that proceedings, mediation was referred. In the said suit the respondent entered appearance through her Advocate. In the meantime, the respondent filed a suit in O.S.No.61 of 2023 before the District Munsif, Thirupathur, seeking permanent injunction restraining the petitioner from pronouncing



Tr.C.M.P.(MD).No.705 of 2023

3rd Talaq before arriving compromise. In the above said suit, the petitioner entered his appearance through his power agent. Now it was posted for filing of written statement and counter in I.A.No.1 of 2023. Since both the matters are arose out of same issue, it must be tried simultaneously by some Court. On that ground, the petitioner seeks transfer of suit. At the time of marriage, the petitioner was working in Chennai. Now he is in abroad. So he appeared before this Court as well as before the trial Court through his power agent, who is his brother.

3.The respondent entered her appearance through his counsel and submitted that she has no objection to transfer the suit to the Family Court, Sivagangai. But she denies the averments made in the affidavit filed in support of this petition.

4.Heard both sides.

5.It is a matrimonial dispute arose between the parties. Mediation process is also pending before the Family Court, Sivagangai. Since the respondent has no objection, the O.S.No.61 of 2023 filed by the



Tr.C.M.P.(MD).No.705 of 2023

respondent on the file of the District Munsif, Thirupathur, is ordered to be withdrawn and transferred to the Family Court, Sivagangai, to try the case along with the pending proceedings in O.S.No.10 of 2023 filed by the petitioner. The Judge, Family Court, Sivagangai, shall conduct joint trial in both cases and dispose of the same.

7. Accordingly, this transfer civil miscellaneous petition is allowed. Consequently, connected miscellaneous petition is closed.

08.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The District Munsif, Thirupathur.
2. The Judge, Family Court, Sivagangai.
3. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Tr.C.M.P.(MD).No.705 of 2023

G.ILANGO VAN,J.

TM

Tr.C.M.P.(MD).No.705 of 2023

08.01.2024