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Tr. CMP.No.404 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr. CMP.No.404 of 2025

and

CMP No.9057 of 2025

S.Shanmugapriyan

... Petitioner

Vs.

B.Dhanalakshmi

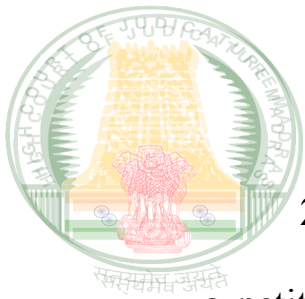
... Respondent

Prayer:- Transfer Petition is filed under Section 24 of the CPC to withdraw the FCOP No.22 of 2022 on the file of Family Court, Chengalpattu and transfer the same to the Family Court, Chennai and thus render justice.

For Petitioner : M/s.S.Sivakumar

ORDER

The above Petition is filed to withdraw and transfer the FCOP No.22 of 2022, pending on the file of the Family Court, Chengalpattu, to the Family Court, Chennai.



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2. It is the contention of the petitioner that he had originally filed a petition in FCOP.No.170 of 2016 for restitution of conjugal rights before the Family Court, Chengalpattu and on 13.10.2017, the said petitioner was dismissed for default. He would further submit that despite his several efforts for reunion all his attempts ended in vain and therefore he had come forward with a petition for divorce in HMOP.No.4589/2019 on the file of the V Family Court, Chennai. Though notice was served on the respondent, she did not appear and ultimately the respondent was called absent and set ex parte and on 28.02.2020 the divorce petition was allowed.

3. The petitioner would submit that after a year from the date of divorce he had married another lady on 10.12.2021 and they are living as husband and wife. The respondent knowing fully well about the 2nd marriage of the petitioner and after a lapse of 2 years had filed a petition seeking restitution of conjugal rights in FCOP.No.22 of 2022 on the file of the Family Court, Chengalpattu. She had also filed IA.No.1 of 2024 in HMOP.No.4589/2019 on the file of the V Additional Family Court at Chennai to condone the delay in filing the application to set aside the ex parte decree in HMOP.No.4589/2019



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which is still pending.

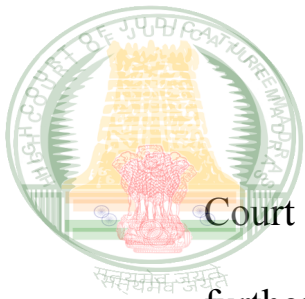
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4. The petitioner would submit that since IA.No.1 of 2024 filed by the respondent is also pending on the file of the V Family Court at Chennai, no prejudice would be caused to the respondent if the above Transfer Civil Miscellaneous Petition is allowed.

5. Heard the learned counsel for the petitioner and perused the records.

6. When the matter had come up on 15.04.2025, this Court had directed the petitioner to produce a copy of FCOP.No.170 of 2016 which is filed by the petitioner/husband seeking restitution of conjugal rights. The same has been produced today.

7. In response to a question posed by the Court regarding how the Family Court at Chennai assumed jurisdiction, the learned counsel for the petitioner would submit that, after the disposal of the earlier petition for restitution of conjugal rights, the parties had reunited and at last resided together at CIT Nagar, Chennai. Therefore, the Family



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Court in Chennai has jurisdiction to entertain the petition. He would further submit that since the petitioner is already contesting IA.No.1 of 2024 before the Family Court at Chennai it would be convenient to have both the matters, namely, FCOP.No.22 of 2022 and IA.No.1 of 2024 in HMOP.No.4549 of 2019 to be heard together at the Family Court Chennai.

8. The statement that has been made across the bar by the learned counsel for the petitioner regarding the invocation of the jurisdiction of the Family Court at Chennai does not find place in the averments contained in the petition for transfer. In the petition filed by the petitioner/husband in HMOP.No.4589/2019 it is simply stated that after the marriage the petitioner and the respondent had started their matrimonial home at No.8, Srirampet Street, CIT Nagar West, T.Nagar, Chennai-35. However, a perusal of the first petition filed by the petitioner/husband in HMOP.No.170/2016 on the file of the Family Court at Chengalpattu, would clearly reveal that the petitioner himself has given his address at Chengalpattu and in para no. 4 of the said petition, he has stated as follows:-

“4. The petitioner further submits that



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immediate on marriage the petitioner and respondent started the matrimonial life in petitioner house, in No.313, Kelambakkam Main Road, Mala Kottaiyur Village, Kandikai, Chengalpattu Taluk, Kancheepuram District.”

9. Useful reference can also be made to para.no.13 of the very same petition which is extracted as follows:-

“13. The petitioner respectfully submits that the marriage solemnized on 02.07.2014 at U.V. Thirumana Mandapam, Kolapakkam, Vandallur-Kelambakkam Main Road, Kancheepuram-District, and the petitioner and respondent last resided together at petitioner home in above said address and therefore this Hon'ble court has comes under this territorial jurisdiction.”

10. Therefore, in the petition filed in FCOP.No.170 of 2016, the petitioner has himself stated that after the marriage both the parties had started their matrimonial home at Chengalpattu and had last resided together at the aforesaid address. Therefore, considering the



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fact that even according to the petitioner the marriage had taken place at Chengalpattu and the parties had last resided together at Chengalpattu, the Family Court at Chennai does not have the jurisdiction and therefore, the transfer cannot be granted.

11. In fine, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

16.04.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1. The Family Court, Chengalpattu.
2. The Family Court, Chennai.

P.T. ASHA. J.,

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