

P. Balakrishnan Vs. Symala and Another

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Court : Chennai Madurai

Decided On : Nov-16-2016

Judge : S.M. Subramaniam

Appeal No. : Tr.C.M.P(MD)No. 465 of 2016 & C.M.P.(MD).Nos. 9484 & 9485 of 2016

Appellant : P. Balakrishnan

Respondent : Symala and Another

Judgement :

(Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw M.C.No.104 of 2015 pending on the file of Family Court, Madurai and to transfer the same to the file of Family Court, Trichy to be tried along with H.M.O.P.No.297 of 2015 pending in that Court.)

1. The marriage between the petitioner and 1st respondent has been solemnized on 04.04.2007 as per the Hindu rites and customs at Madurai. Due to strained relationship between the parties, the 1st respondent left the matrimonial home and now she is living separately along with their daughter, the second respondent.

2. The contention of the petitioner is that the petitioner filed H.M.O.P.No.489 of 2014 before the Family Court, Vellore for divorce and the 1st respondent/wife filed Tr.C.M.P.No.533 of 2014 before the High Court of Madras, Principal Seat and by the order High Court of Madras, Principal Seat dated 10.06.2015, the said petition

was allowed and H.M.O.P.No.489 of 2014 was transferred to the Family Court, Trichy and renumbered as H.M.O.P.No.267 of 2015. Subsequently, the respondents filed M.C.No.104 of 2015 before the Family Court, Madurai seeking maintenance. Now, the present petition is filed to transfer the maintenance case to the Family Court, Tiruchirappalli for joint trial.

3. The learned counsel for the respondents would submit that the case may be referred to the Mediation and Conciliation Centre. When the question is put to the learned counsel for the petitioner, she disagree with the proposal on the ground that on earlier occasion the very same matter was referred to Mediation and Conciliation Centre and there was no result on that. Hence, this Court is inclined not to accept the representation that the case should be referred to Mediation and Conciliation Centre as no purpose will be served in referring the matter to Mediation and Conciliation Centre.

4. In the facts and circumstances of the case and the fact that the 1st respondent/wife had already filed Tr.C.M.P.No.533 of 2014 before the Principal Seat of Madras High Court and got the divorce petition transferred to Family Court, Trichy, this Court is of the view that the present petition for transfer is to be considered.

5. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and M.C.No.104 of 2015 on the file of the Family Court, Madurai is ordered to be transferred to the file of Family Court, Trichy forthwith to be tried along with H.M.O.P.No.297 of 2015. No costs. Consequently, connected Miscellaneous Petitions are closed.

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