

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.12.2016

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.550 of 2016
and C.M.P.No.15036 of 2016

N.Jennifer Hephzibah @ Neeta

..Petitioner/Respondent

vs.

G.Jayaprakash

..Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the I.D.O.P.No.59 of 2015 pending on the file of the Principal District and Sessions Judge, Kancheepuram District at Chengalput 603 001 and to transfer the same to the Principal District and Sessions Judge, Tiruvallur 602 001.

For Petitioner : Mr.A.Ramaswamy

For Respondent : Mr.S.Nambi

ORDER

The petitioner/wife has filed this petition seeking to withdraw the I.D.O.P.No.59 of 2015 pending on the file of the learned Principal District and Sessions Judge, Kancheepuram District at Chengalput 603 001 and to transfer the same to the Principal District and Sessions Judge, Tiruvallur 602 001.

2. The case of the petitioner is as follows:

The respondent/husband in this petition had filed IDOP No.59 of 2015 on the file of the learned Principal District and Sessions Court at Chingleput, which was subsequently transferred to the file of the Principal Family Court, Chingleput on 26.09.2016. According to the petitioner/wife, since she is living in Kumananchavadi near Poonamallee, the transfer is now sought for by her to the Principal District and Sessions Court at Tiruvallur as the same would be nearer to her than the Family Court at Chingleput. Further the Family Court, Chingleput requires the compulsory presence of the party and it would be difficult for her to reach there, travelling for more than three hours. Hence, the present petition seeking the aforesaid prayer.

3. The learned counsel for the respondent/husband submitted that the pleadings are complete and he is ready with his proof affidavit and the trial has to be commenced. The respondent/husband's only complaint is that the matter has to be taken up on a day to day basis and completed either at Chingleput or at Tiruvallur. It is his case that the petitioner is only trying to drag on the proceedings.

4. In the above factual scenario, whether the transfer sought for by the petitioner/wife can be granted?

5. Admittedly, the matter was pending before the Principal District and Sessions Court at Chingleput and due to administrative reasons, it was transferred on 26.09.2016 to the file of the Family Court, at Chingleput. As mentioned above, it is only a trial that is pending and the learned counsel appearing for the respondent/husband agree for the transfer of IDOP No.59 of 2015 to District Court at Tiruvallur, however, he would only pray that the trial may be conducted on a day to day basis, without dragging on the proceedings further.

6. Considering the plea of both sides, this Court is of the opinion that the transfer sought for by the petitioner/wife is allowed only for the sake of her convenience. Though the distance between the petitioner's place to Tiruvallur or Chingleput does not make a huge difference, only to accommodate the petitioner/wife of her difficulty in travelling to Chingleput, this Court is inclined to allow the transfer of IDOP No.59 of 2015, originally pending on the file of the Principal District and Sessions Court, Kanchipuram at Chingleput now transferred to Family Court, Chingleput to be transferred to the Principal District and Sessions Court, Tiruvallur, however, subject to the following conditions:

(i) The date of first hearing before the learned Principal District and Sessions Judge, Tiruvallur shall be held on 19.12.2016.

(ii) It is made clear that both the parties should appear before the said Court for each of the hearings without fail and no adjournment should be sought for.

(iii) The learned Principal District and Sessions Judge, Tiruvallur is directed to complete the trial on a day to day basis and the IDOP No.59 of 2015 has to be disposed of on or before 28.02.2017.

(iv) Post the matter for reporting compliance on 06.03.2017.

7. With the above direction, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, the connected CMP.No.15036 of 2016 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Kancheepuram District, Chingleput
 2. The Judge, The Family Court, Chingleput
 3. The Principal District and Sessions Judge,
Tiruvallur
 4. The Section Officer, V.R. Section
High Court, Madras
 5. The Section Officer,
Judicial Section, High Court, Madras.
- + 2 ccs to Mr.A. Ramaswamy, Advocate SR.72045

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