

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2018

PRONOUNCED ON : 10.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 1018 of 2017

and

CMP.No.20763 of 2017

A.Saranya Devi ... Petitioner

Vs.

S.Senthilkumar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the HMOP No.278 of 2017 from the file of Family Court, Trichirappalli and to transfer the same to the file of Subordinate Court, Tambaram.

For Petitioner : Mr.R.Prabhakar

For Respondent : Mr.S.Vinor Sathya Lazar

ORDER

The petitioner is the wife. The respondent is the husband.

2.The respondent has laid HMOP No.278 of 2017 against the petitioner for divorce and the same is pending on the file of the Family Court, Trichirappalli.

3.Seeking the transfer of the above proceeding from Trichirappalli Court to Tambaram Sub Court on the footing that the petitioner is a resident of Medavakkam, Chennai and residing with her parents, it is stated that the petitioner may be put to inconvenience and hardship in travelling to Trichirappalli Court for reaching every hearing and also putting forth the cause that the petitioner would be put to financial distress in travelling to Trichirappalli Court from Chennai, accordingly, the petitioner has sought for the transfer of the proceeding from Trichirappalli Court to Tambaram Court.

4.Considering the nature of the proceeding between the parties, as rightly put forth, it is seen that the presence of the petitioner, on each and every hearing date of the divorce proceeding at Trichirappalli Court, may not be required. The petitioner being represented by an able advocate, it is seen that the petitioner could also defend her proceeding at the said Court through her advocate as per law by giving necessary instructions to the said advocate. Furthermore, the petitioner's presence would be required only on the date of hearing when her evidence is to be recorded in support of her version. Thus, being the position, it is seen that the distance factor projected by the petitioner for seeking the transfer as such cannot be readily accepted.

5.As regards the financial constraints put forth by the petitioner for seeking the transfer, it is seen that it is always open to the petitioner to move the concerned Court for seeking the necessary litigation expenses that she may incur in defending the proceeding as provided under law. In such view of the matter, the contention of the petitioner that she would be required to incur expenses in travelling to Trichirappalli Court as such cannot be readily accepted.

6.It is not the case of the petitioner that Trichirappalli Court is not having the jurisdiction to try and determine the divorce proceeding laid by the respondent.

7. In the light of the above factors, the reasons projected by the petitioner for effecting the transfer as prayed for, not being justifiable and unacceptable, accordingly, the Transfer Civil Miscellaneous petition is dismissed. Consequently, connected CMP.No.20763 of 2017 is also dismissed.

10.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

1.The Family Court, Trichirappalli.

2.The Subordinate Court, Tambaram.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 1018 of 2017
and
CMP.No.20763 of 2017

10.09.2018