

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. 1042 of 2017
and
CMP.No.21212 of 2017

S.Rajeshwari ... Petitioner
Vs.

K.Rajkumar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.7 of 2016 on the file of the Sub-Court, Vellore and transfer the same to Sub-Court, Poonamallee to be tried along with HMOP No.420 of 2017.

For Petitioner : Mr.S.Ganesh

For Respondent : Mr.P.Bakkiaraj

ORDER

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

2.All is not well qua the marital life of the petitioner and the respondent.

3.It is found that the respondent has levied divorce proceeding against the petitioner in HMOP No.7 of 2016 and the same is pending on the file of the Sub-Court, Vellore.

4.Seeking the restitution of conjugal rights, the petitioner has laid HMOP No.420 of 2017 and the same is pending on the file of the Sub-Court, Poonamallee.

5.Expressing certain inconvenience and hardship in travelling to Vellore Court to defend the divorce proceeding laid against her by the respondent and as she has to take care of her child and also putting forth that she would incur expenses by way of the same and also contending that as the proceeding laid by her is pending on the file of the Sub-Court, Poonamallee, for the reasons aforestated, the petitioner has come forward with the present petition seeking the transfer of the divorce proceeding of her husband from Vellore Court to Poonamallee Court for joint trial.

6.The respondent has contested the petitioner's request for transfer stating that the distance between the place of residence of the petitioner and Vellore Court is not on the higher side and no inconvenience is caused to the petitioner in defending the proceeding at Vellore Court and therefore, prayed for the dismissal of the transfer petition.

7.As regards the marital issues between the parties, it is seen that two proceedings are pending in two different forums and as common issues are involved in both the proceedings, in my considered opinion, in the interest of justice, both the proceedings should be tried and determined by one and the same Court and by way of the same, the parties would be required to adduce common evidence and also the same would avoid conflict of decisions. Thus, it is seen that the consolidation of two proceedings and the determination of the same by one and the same Court would advance the cause of justice.

8.In addition to that, the petitioner has putforth certain inconvenience and hardship in travelling to Vellore Court from her residence and the same cannot be easily disregarded. That apart, the respondent would also be required to attend the proceeding at Poonamallee Court for defending the OP laid against him by the petitioner. By having the proceeding transferred from Vellore Court to Poonamallee Court, it is found that the respondent would not be seriously prejudiced.

9.In the light of the above factors, the transfer request of the petitioner is acceded to and accordingly, HMOP No.7 of 2016 is withdrawn from the file of the Sub-Court, Vellore and transferred to the file of the Sub-Court, Poonamallee for joint trial along with HMOP No.420 of 2017.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.21212 of 2017 is closed.

10.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Sub-Court, Vellore.
- 2.The Sub-Court, Poonamallee.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 1042 of 2017
and
CMP.No.21212 of 2017

10.09.2018