

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 499 of 2017
and
C.M.P.No.10270 of 2017

T.Priya ... Petitioner

Vs.

S.Sukumar Respondent

Prayer :-

Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the O.P.No.1262 of 2017 from the file of the learned III Additional Judge, Family Court, Chennai and to transfer the same to the file of the Learned Subordinate Court, Arakkonam to be tried along with the O.P.No.24 of 2017.

For Petitioner : Mr.G.Jeremiah

For Respondent : No appearance

ORDER

The petitioner/wife has preferred the transfer petition to transfer O.P.No.1262 of 2017 pending on the file of the 3rd Additional Judge, Family Court, Chennai, to the file of the Subordinate Court, Arakkonam for being jointly tried along with HMOP.No. 24 of 2017 which has been laid by the petitioner against her husband/respondent for restitution of conjugal rights.

2. It is found that respondent/husband has laid the petition in O.P.No.1262 of 2017 on the file of the 3rd Additional Judge, Family Court, Chennai for restitution of conjugal rights.

3. Accordingly, it is found that the petitioner has come forward with the present petition that inasmuch as the abovesaid two proceedings had been laid for one and the same relief and common issues are involved in both the matters, between the husband and the wife, in the interest of justice sought the transfer of the proceeding pending on the file of the family Court, Chennai to the file of the Subordinate Court, Arakkonam.

4. As rightly putforth, when it is found that the proceedings laid by the petitioner as well as laid by the respondent are one and for the same cause, accordingly, it is seen that the issues involved in both the proceedings between the parties are one and the same. Therefore, if common trial is conducted in both the proceedings, the parties would be put to minimum hardship in the conduct of the cases preferred by them respectively and further more, considering the common issues involved in the matter, the adjudication of the same by one and the same presiding officer would serve the interest of justice. On the otherhand, if the proceedings are allowed to proceed in the two different forums, the parties would be put to loss and hardship and there is also likely to be conflict of decisions in the two proceedings either to the advantage of the parties concerned or to the disadvantage of the parties concerned. In such View of the matter, I am of the view that in the interest of justice, the proceedings laid by the parties abovestated should be tried by the same Court.

5. The petitioner's proceeding is pending on the file of the Subordinate Court, Arakkonam. Considering the distance between Chennai and Arakkonam and further, when it is seen that the respondent has not evinced any interest to contest the transfer request of the petitioner and remained exparte, by effecting the transfer of the case laid by the respondent to the Sub Court, Arakkonam, no serious prejudice would be caused to the respondent, as such, particularly in order to meet the ends of justice, on the footing that the proceedings abovestated should be tried at the Subordinate Court, Arakkonam for enabling the common adjudication of the issues involved between the parties in the said proceedings.

6. For the reason aforestated, HMOP No.1262 of 2017 pending on the file of the III Additional Judge, Family Court, Chennai is withdrawn and transferred to the file of the Subordinate Court, Arakkonam for being jointly tried along with HMOP No.24 of 2017 preferred by the petitioner for restitution of the conjugal rights.

Resultantly, the transfer Civil Miscellaneous petition is ordered. Consequently, connected CMP No.10270 of 2017 is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sms

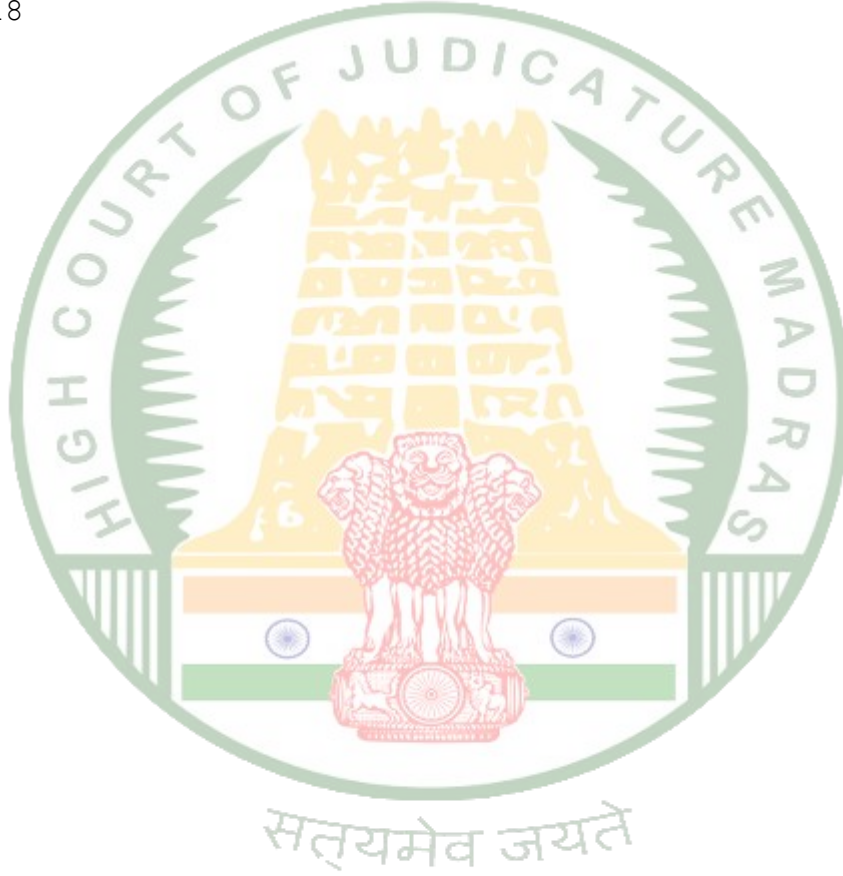
To

- 1.The III Additional Judge, Family Court, Chennai.
- 2.The Subordinate Judge, Arakkonam.

+1cc to Mr.G.Jeremiah, Advocate, S.R.No.54658

Transfer CMP.No.499 of 2017
and
C.M.P.No.10270 of 2017

CS/04/09/18



WEB COPY