

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.08.2018

PRONOUNCED ON : 14.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 738 of 2017

A.Anitha ... Petitioner

Vs.

M.Kumaran ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the HMOP No.65 of 2017 from the file of the Subordinate Court, Gudiyattam to the file of the Subordinate Judge at Arani or any competent Court to try the same.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.R.Chandrasekaran

ORDER

The petitioner is the wife.

2. The respondent is the husband.

3. The respondent has laid HMOP No.65 of 2017 against the petitioner seeking divorce and the same is pending on the file of the Sub-Court, Gudiyattam.

4. Seeking transfer of the abovesaid proceeding to the file of the Sub-Court, Arani, the present transfer petition has been laid by the petitioner.

5. The only ground projected by the petitioner for seeking transfer is that the respondent has chosen the forum at Gudiyattam to suit his convenience and thereby, caused hardship to the petitioner and therefore, according to the petitioner, in the interest of justice, the divorce proceeding pending on the file of the Sub-Court Gudiyattam should be transferred to the Sub - Court, Arani.

6. As per the averments contained in the divorce petition, it is found that the petitioner's address is shown at Arani, Thiruvannamalai District. Further, according to the petitioner, the address shown in the HMOP cause title is

temporary and the same is her father's official accommodation. Be that as it may, when it is found that it is not the case of the petitioner that the Sub-Court, Gudiyattam lacks jurisdiction to adjudicate the divorce proceeding initiated by the respondent and other than relative hardship, the petitioner has not made out any cause for effecting the transfer, it is found that the petitioner's request for transfer cannot be acceded to.

7. Considering the nature of the proceeding pending between the parties as abovesated, the petitioner's presence may not be required on all the hearing dates and particularly, when the petitioner is being represented by an able advocate and he could manage the show on all the hearing dates as per the instructions received from the petitioner and at the most, the petitioner's presence would be required only at the time when her evidence is to be recorded in support of her version, it is found that the cause projected by the petitioner for seeking transfer as such cannot be maintained. Accordingly, it is found that without any material placed, it cannot be assumed that the respondent has laid the divorce proceeding at the Sub-Court, Gudiyattam, with a view to cause hardship to the petitioner.

8. Considering the place of residence of the petitioner and the proceeding pending before the Sub-Court, Gudiyattam, the distance is not on the higher side as sought to be projected by the petitioner and as abovenoted, when the petitioner's presence is not required on all the hearing dates of the divorce proceeding, it is found that the transfer sought for by the petitioner, cannot be accepted as the same is lacking in merits.

Resultantly, the transfer Civil Miscellaneous petition is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS iv)

//True Copy//

Sub Assistant Registrar

sms

To

1.The Subordinate Court, Gudiyattam.

+1 cc to Mr.S.Sivakumar Advocate SR.NO. 55389

+1 C.C. to Mr.R.Chandrasekar Advocate SR.NO. 56355

Order made
in

Transfer CMP.No. 738 of 2017

ASK (04/09/2018)