

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 991 of 2017  
and  
C.M.P.No.20020 of 2017

M.Indhumathy ... Petitioner

Vs.

P.Balasubramanian ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer HMOP No.56 of 2017 on the file of the Subordinate Court, Pollachi to the Family Court, Coimbatore to be tried along with HMOP No.779 of 2017.

For Petitioner : Mr.Hariharan

For Respondent : Ms.Sripriya  
for Mr.Raghavachari

ORDER

The petitioner/wife has laid HMOP No.779 of 2017 on the file of the Family Court, Coimbatore for restitution of conjugal rights. The respondent/husband has laid the divorce petition in HMOP No.56 of 2017 on the file of the Subordinate Court, Pollachi.

2. Alleging that the petitioner being a woman and unable to travel to Pollachi situated 65 kilometers away from her residence and also stating that her parents are unable to accompany her to Pollachi for each and every hearing date and further, contending that no prejudice would be caused to the respondent, if the matters abovesated are tried by one and the same Court, particularly, at the Family Court, Coimbatore, on the abovesaid reasonings, the petitioner has come forward with

the transfer petition seeking transfer of HMOP No.56 of 2017 pending on the file of the Subordinate Court, Pollachi to the file of the Family Court, Coimbatore for being jointly tried with HMOP No.779 of 2017 filed by her for restitution of conjugal rights.

3.The respondent's counsel contended that there is no need for effecting the transfer as prayed for by the petitioner, as the petitioner's presence may not be required for each and every hearing date at Pollachi Sub-Court and accordingly, prayed for the dismissal of the transfer petition.

4. The petitioner, being the wife, has laid the petition for restitution of Conjugal rights. The respondent, being the husband, has laid the petition for divorce. Accordingly, it is found that the grounds putforth by the respective parties in support of their cases could be a common ground in material aspects. In such view of the matter, when it is found that the issues involved between the parties as regards their respective cases would be one and the same, in my considered opinion, a common adjudication of the issues between the parties involved in the above two cases by the same presiding officer would serve the interest of justice. Secondly, the fact that the petitioner is staying at Coimbatore with her aged parents has not been controverted by the respondent and accordingly, it is found that the petitioner's parents would not be in a position to accompany her to Pollachi for attending the Court proceedings at Pollachi. Therefore, it is seen that the difficulty putforth by the petitioner in making travel to Pollachi for attending the Court hearings cannot be easily disregarded.

5. The respondent is stated to be residing at Pollachi Taluk, Coimbatore District. Accordingly, considering the above factual position and also the interest of justice would be served, if both the matters are tried by the same Court, in all aspects, I deem it fit to transfer the divorce proceeding laid by the respondent/husband to the Coimbatore Court for the joint trial of both the proceedings.

6. In the light of the above reasonings, the HMOP No.56 of 2017 on the file of the Subordinate Court, Pollachi is withdrawn and transferred to the file of the Family Court, Coimbatore, for being jointly tried along with HMOP No.779 of 2017.

Resultantly, the Transfer Civil Miscellaneous petition filed by the petitioner is allowed. No costs. Consequently, connected CMP No.20020 of 2017 is dismissed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,  
Pollachi.
2. The Judge,  
Family Court,  
Coimbatore.

+1cc to M/S.K.V.Law firm, Advocate Sr.54648  
+1cc to Mr.V.Raghavachari, Advocate Sr.54844

Transfer CMP.No. 991 of 2017  
and  
C.M.P.No.20020 of 2017

srg 31/08/2018

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