

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :16.08.2018

PRONOUNCED ON:23.08.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.126 of 2018

&

C.M.P.No.3407 of 2018

Suganthi

...Petitioner

Vs.

Sathish Kumar

...Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.15 of 2017 pending on the file of the Subordinate Judge of Neyveli and transfer to the file of the Subordinate Judge of Krishnagiri.

For Petitioner : Mr.V.Nicholas

For Respondent : Mr.A.Mohan

O R D E R

Petitioner is the wife. Respondent is the husband.

2. The respondent has instituted the H.M.O.P.No.15 of 2017 against the petitioner for divorce and the same is pending on the file of the Subordinate Court, Neyveli. Putting forth the case that the petitioner is residing at Krishnagiri with her aged parents and they would not be in a position to accompany her to Neyveli Court and the petitioner would incur loss and hardship if she is directed to attend the hearing dates at Neyveli Court, accordingly, on the abovesaid reasonings, the petitioner has come forward with the petition seeking transfer of the proceeding to the Subordinate Court, Krishnagiri.

3. The respondent has contested the abovesaid request of the petitioner by stating that the petitioner's presence may not be required on each and every hearing date of the proceeding at

Neyveli Court and in such view of the matter, the petitioner would not be put to any loss or hardship, if the proceedings were to continue at Neyveli Court and accordingly sought for the rejection of the transfer request of the petitioner.

4. Considering the nature of the proceeding between the parties, it is found that the petitioner's presence would not be required on all the hearing dates at Neyveli Court. On the other hand, it is found that the petitioner's presence would be required only on the hearing date when her evidence is to be recorded in support of her case. Further, it is found that the petitioner is being represented by an able advocate and as rightly put forth, the advocate concerned would be able to attend the hearing dates at Neyveli Court as per instructions received from the petitioner now and then. Accordingly, it is seen that the reasons projected by the petitioner for effecting the transfer as such cannot be accepted.

5. At the time of argument the petitioner's counsel contended that Neyveli Court has no jurisdiction to entertain the divorce proceeding laid by the respondent, however with reference to the same, there is no material placed by the petitioner's counsel, in support of the above point. That plea has not been raised in the petition. Accordingly, it is found that the abovesaid contention has been raised only for the sake of arguments without any basis and accordingly discountenanced.

6. The petitioner has also pleaded that her life would be put to danger, if she were to travel to Neyveli Court for attending the Court proceeding. However, it has not been established by the petitioner that till date she had been subjected to any ill treatment or endangerment to her life and body at the hands of the respondent. If any such incident had occurred, the petitioner would have instituted necessary legal action against the respondent. Such being the position, the contention of the petitioner that her life would be put to danger if she were to attend the proceeding at Neyveli Court as such cannot be accepted.

7. For the reasons aforesaid, it is found that the petitioner has not made out the case accepting the transfer request projected by her. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

mfa

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge of Neyveli.

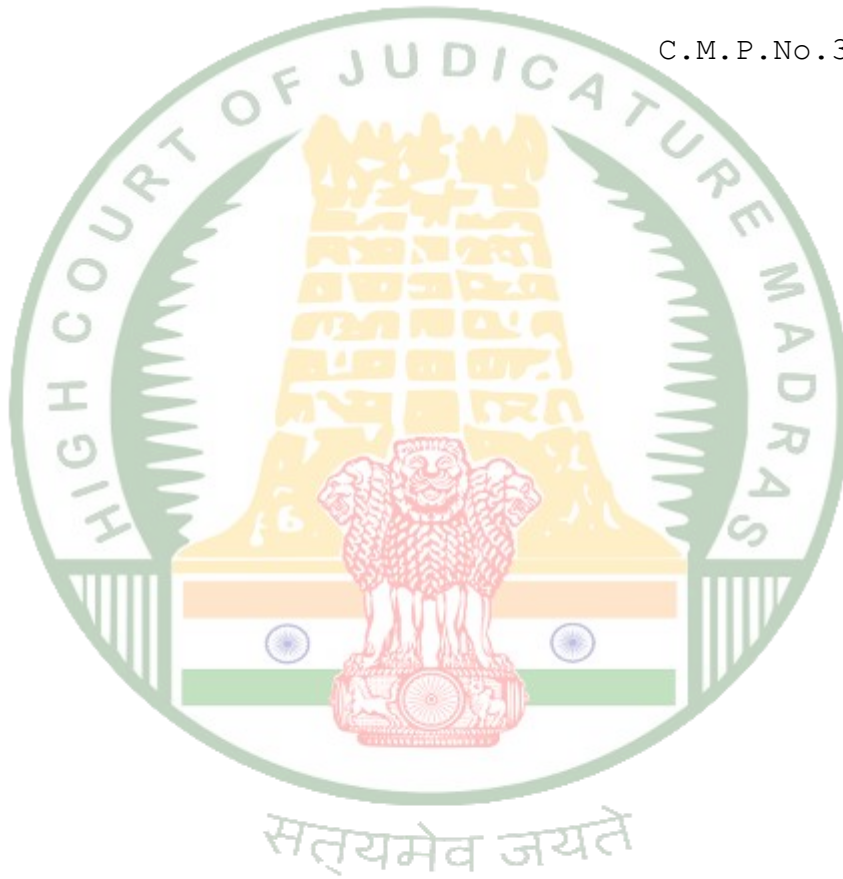
+1cc to Mr.V.Nicholas, Advocate SR.NO.57416

sm:7.9.2018

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