

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.08.2018

PRONOUNCED ON : 21.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.249 of 2018
and
CMP.No.6408 of 2018

K.Dhivya ... Petitioner/Respondent
Vs.
V.Jagadeeswaran ...Respondent/Petitioner

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the restitution of conjugal rights petition in FCOP No.51 of 2018 pending on the file of the Family Court, Vellore and try along with HMOP No.7 of 2018 pending on the file of the Sub-Court, Neyveli.

For Petitioner : Mr.K.Gandhikumar
For Respondent : No appearance
Set exparte vide order
dated 16.08.2018

ORDER

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

2.HMOP No.7 of 2018 has been laid by the petitioner against the respondent for divorce and the same is pending on the file of the Sub-Court, Neyveli.

3.FCOP No.51 of 2018 has been laid by the respondent against the petitioner for restitution of conjugal rights and the same is pending on the file of the Family Court, Vellore.

4.Contending that the distance between Neyveli and Vellore is on the higher side and the petitioner having to take care of a small baby would find it inconvenient to travel to Vellore Court for attending the proceeding initiated against her by the respondent and on the other hand, the respondent being an earning member would not find it difficult to attend the proceeding at Neyveli and accordingly, sought for the transfer of FCOP No.51 of 2018 pending on the file of the Family Court, Vellore to Sub-Court, Neyveli for being jointly tried along with

HMOP No.7 of 2018.

5. Though the respondent had entered appearance in this matter, subsequently, he has not evinced interest to contest the case of the petitioner and accordingly, he being called and remaining absent, and consequently, has been set exparte.

6. The petitioner has expressed some inconvenience and hardship in attending the Court at Vellore. The abovesaid cause projected by the petitioner for seeking transfer has not been repudiated by the respondent by contesting the present matter. Accordingly, it is found that inasmuch as the abovesaid cause is found to be genuine and acceptable, unable to resist the same, the respondent has not shown interest to challenge the same.

7. Be that as it may, when it is found that two proceedings filed by each party are pending in different forums and all pertain to the marital issues between the parties, in my considered opinion, common adjudication of the proceedings by the same Court would ennure to the benefit of the parties as the parties would be required to adduce common evidence in both the matters, if the proceedings are heard and tried by the same Court. That apart, if the proceedings are tried and adjudicated by the same Court, conflict of decisions could be avoided and thereby, there would be no loss, mental agony to either of the parties. Further, the respondent has not shown any inconvenience and prejudice being caused to him in accepting the transfer request projected by the petitioner. As above seen, the respondent has also not contested the cause projected by the petitioner for seeking the transfer.

8. In the light of the abovesaid position, the petitioner is found to have made a justifiable cause for effecting the transfer prayed for.

9. For the reasons aforestated, FCOP No.51 of 2018 is withdrawn from the file of the Family Court, Vellore and transferred to the file of the Sub-Court, Neyveli, for joint trial along with HMOP No.7 of 2018. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP No.6408 of 2018 is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

sms

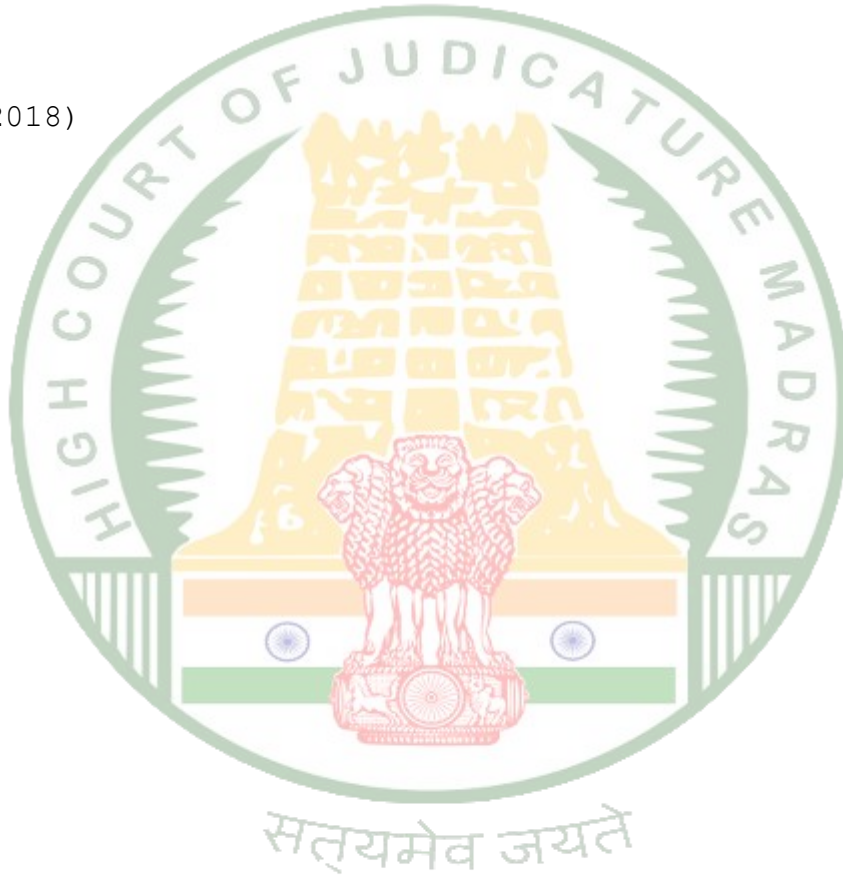
To

1. The Family Court, Vellore.
2. The Sub-Court, Neyveli.

+1cc to Mr.K.Gandhi Kumar, Advocate, S.R.No. 57159

Transfer CMP.No.249 of 2018
and
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SJ(CO)
GN(11/09/2018)



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