

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.08.2018

PRONOUNCED ON : 29.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 499 of 2018

S.Kalaivani ...Petitioner/Respondent
Vs.

S.Sathish Kumar ...Respondent/Petitioner

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the case in HMOP No.34 of 2018 pending before the Sub-Court, Mannargudi and transfer the same to the Family Court at Karaikal, to try along with MOP No.14 of 2018.

For Petitioner : Mr.R.Vasudevan

For Respondent : No Representation/No appearance
set exparte vide order
dated 27.08.2018

ORDER

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

2.The marital life between the petitioner and the respondent is not cordial.

3.It is found that the respondent has levied divorce proceeding against the petitioner in HMOP No.34 of 2018 and the same is pending on the file of Sub-Court, Mannargudi. The petitioner has levied MOP No.14 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the Family Court at Karaikal.

4.Contending that the petitioner is a poor lady depending upon her parents and also has to maintain her two year old child and expressing her inconvenience and hardship in travelling to Mannarkudi from Karaikal to attend the HMOP proceeding laid by the respondent against her, accordingly, putting forth the case that if both the proceedings are tried and determined at

Karaikal, no prejudice would be caused to the respondent, accordingly, has come forward with the present petition seeking transfer of divorce proceeding from the file of the Sub-Court, Mannargudi to the file of the Family Court, Karaikal for joint trial along with MOP No.14 of 2018.

5. Two proceedings are pending in different forums as regards the marital issues involved between the parties. In such view of the matter, it is seen that common issues would arise in both the matters between the parties. Therefore, the interest of justice would be better served if both the proceedings are commonly adjudicated by one and the same Court and by way of the same, it is found that the parties would be required to adduce common evidence in both the matters and further, the adjudication of both the proceedings by one and the same Court would also avoid conflict of decisions. Thus, it is found that as rightly put forth by the petitioner's counsel, the joint trial of the two proceedings is necessary.

6.As could be seen from the documents put forth by the petitioner's counsel, it is found that the respondent has levied Transfer CMP No.270 of 2018 against the petitioner for transferring the proceeding from Karaikal Court to Mannargudi Court for joint trial on the footing that his visit to Karaikal would be dangerous to his life and body at the hands of the petitioner and her men. However, inasmuch as the respondent has failed to project a valid cause with reference to the same by placing acceptable and reliable materials, it is seen that the abovesaid transfer CMP has come to be rejected by this Court.

7.Be that as it may, the petitioner put forth certain inconvenience and hardship in coming down to Mannargudi in attending the divorce proceeding laid against her by the respondent. The respondent, though, had entered appearance in this matter, thereafter, did not evince interest to contest the case of the petitioner and accordingly, he having been called and remained absent and thereby, set exparte, accordingly, it is found that the respondent as such has not disputed the factum of inconvenience and hardship that may be caused to the petitioner in travelling to Mannargudi for attending the divorce proceeding initiated by him against her. The respondent has not denied the fact that the petitioner has to look after the minor child and when her parents are not affluent, accordingly, it is seen that the petitioner has made out a sufficient cause for seeking the transfer and as abovenoted, the said cause has not been contested by the respondent as such.

8.By having both the proceedings tried at Mannargudi, it is seen that no serious prejudice would be caused to the respondent as such. As abovenoted, the effort of the respondent to have both the proceedings determined at Mannargudi Court ended in

failure as the respondent has failed to establish that he would be put to bodily harm at the hands of the petitioner and her men. Such being the position, it is seen that the determination of both the proceedings at Karaikal Court would as such cause no serious prejudice to the respondent.

9. In view of the above facts, the Transfer request of the petitioner deserves acceptance. Accordingly, HMOP No.34 of 2018 is withdrawn from the file of the Sub-Court, Mannargudi and transferred to the file of the Family Court, Karaikal, for joint trial along with MOP No.14 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected Civil Miscellaneous petition, if any, is closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

sms
To

1. The Subordinate Judge, Mannargudi.

2. The Judge
Family Court at Karaikal.

+1 CC to Mr. T. Susindran, Advocate sr 59015.

Transfer CMP.No. 499 of 2018

SR(CO)
SP(11/09/2018)

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