

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.08.2018

PRONOUNCED ON : 03.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 541 of 2018

and

CMP.No.13388 of 2018

Nithya ... Petitioner

Vs.

Anand Emmanuel John Doss ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the GWOP No.141 of 2018 filed by the respondent on the file of Principal District Judge, tiruvallur and transfer to IV Additional Family Court, Chennai.

For Petitioner : Mr.M.L.Rajesh

For Respondent :No Representation/No Appearance

set exparte vide order

dated 30.08.2018

ORDER

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

2.The marital life between the parties is not cordial.

3.Materials placed on record would go to show that the respondent has preferred OP.No.61 of 2018 for restitution of conjugal rights against the petitioner and the same is pending on the file of the IV Additional Family Court, Chennai. It is further seen that the petitioner has laid M.C.No.116 of 2008 against the respondent and the same is also pending on the file of the IV Additional Family Court, Chennai. In addition to that, the petitioner has laid O.P.No.2930 of 2018 for dissolution of marriage between the parties and the same is also found to be pending on the file of the IV Additional Family Court, Chennai.

4.Now, according to the petitioner, with a view to harass her and cause hardship, the respondent has levied GWOP No.141 of 2018 against her seeking custody of the child and the same is pending on the file of the Principal District Court, Thiruvallur and accordingly, putting forth the case that she would be unable to defend the proceeding at Thiruvallur Court and accordingly, further contending that inasmuch as three proceedings are pending between the parties in the Family Court, Chennai and accordingly, sought for the transfer of the GWOP proceeding from Thiruvallur Court to Family Court, Chennai for adjudication and also contending that by way of the abovesaid transfer, no serious prejudice would be caused to the respondent. It is also stated that the respondent and his father are advocates practising at Madras High Court and therefore, the transfer of Guardian OP to the Chennai Court would be beneficial to both the parties.

5.The reasons projected by the petitioner for seeking the transfer of the guardian OP from Thiruvallur Court to Chennai Court has not been contested by the respondent. Accordingly, it is found that when the three proceedings are pending between the parties at the Family Court, Chennai and if another proceeding, as regards their marital issues, is allowed to be continued in a different forum, considering the likelihood of the issues involved in four proceedings being more or less the similar and interconnected, in my considered opinion, the adjudication of all the proceedings between the parties, if tried and determined by one and the same Court, the same would be beneficial to both the parties and by way of the same, it could be seen that conflict of decisions could also be avoided. Accordingly, it is seen that the respondent himself has also not chosen to contest the transfer request of the petitioner and chosen to remain exparte. That apart, the petitioner has also expressed certain inconvenience and hardship in travelling to Thiruvallur Court to defend the guardian OP and accordingly, sought for the transfer of GWOP from Thiruvallur Court to Chennai Court and the said reason is also not controverted by the respondent. In all, for the reasons aforestated, it is found that the petitioner has putforth a justifiable cause for seeking the transfer of the Guardian OP pending on the file of the Thiruvallur Court to Family Court, Chennai.

6.Accordingly, GWOP No.141 of 2018 is withdrawn from the file of the Principal District Court, Thiruvallur and transferred to the file of the IV Additional Family Court, Chennai for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP No.13388 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms

03.09.2018

To

1. The Principal District Court, Tiruvallur.
2. The IV Additional Family Court, Chennai.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 541 of 2018
and
CMP.No.13388 of 2018

03.09.2018

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To
The Hon'ble Mr.Justice T.RAVINDRAN

Most respectfully submitted
sms
P.A.to the Hon'ble Judges