

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. 532 of 2018

and

CMP.No.13129 of 2018

N.Sowndarya ... Petitioner

Vs.

Rakesh ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the FCHMOP No.203 of 2018 from the file of the Family Court, Salem and transfer the same to the file of the Subordinate Court, Pollachi to be tried jointly with HMOP No.106 of 2018.

For Petitioner : Mr.L.Mouli

For Respondent :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 go to show that the petitioner has laid HMOP No.106 of 2018 against the respondent for restitution of conjugal rights and the same is pending on the file of the Subordinate Court, Pollachi. It is further seen that the respondent has filed divorce proceeding against the petitioner in FCHMOP No.203 of 2017 and the same is pending on the file of the Family Court, Salem. Seeking transfer of the abovesaid divorce proceeding from Salem Court to Pollachi Subordinate Court, the present petition has come to be laid by the petitioner.

4.According to the petitioner, inasmuch as two proceedings, as regards the marital issues involved between the parties, are pending in different forums, the consolidation of two proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and further, it is stated that the conflict of decisions could also be avoided by way of the same. Accordingly, sought for the transfer.

5.The respondent, though, had been served in this matter, remained absent and accordingly, he had

been set exparte.

6.It is thus found that the respondent has not chosen to contest the case of the transfer request of the petitioner as he is aware that the joint trial of two proceedings by one and the same Court would be beneficial to both the parties and if need be, common evidence could also be adduced by both the parties in the two proceedings, as rightly argued, conflict of decisions could also be avoided.

Therefore, the interest of justice also require that the two proceedings abovesaid should be tried and determined by one and the same Court.

7.The transfer request of the petitioner remains unchallenged, accordingly, taken into account, the abovesaid factors, FCHMOP No.203 of 2018 is withdrawn from the file of the Family Court, Salem and transferred to the file of the Subordinate Court, Pollachi for joint trial along with HMOP No.106 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP No.13129 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms 03.09.2018

To

1.The Family Court, Salem.

2.The Subordinate Court, Pollachi.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 532 of 2018
and
CMP.No.13129 of 2018

03.09.2018