

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. 533 of 2018

and

CMP.No.13154 of 2018

Josephine Remitha ... Petitioner

Vs.

M.Gopikrishnan ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.2378 of 2018 on the file of the I Additional Family Court, Chennai and transfer the same to the Family Court, Coimbatore district.

For Petitioner : Mr.Deepan Udey

For Respondent : Mr.P.Chandrasekar

ORDER

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

2.The respondent has laid O.P.No.2378 of 2018 against the petitioner for restitution of conjugal rights and the same is pending on the file of the I Additional Family Court, Chennai.

3.The petitioner putting forth the case that she is apprehending danger to her life and body in defending the proceeding at Chennai Court and as she is residing at Coimbatore, according to her, the divorce proceeding pending on the file of the Chennai Court should be transferred to the file of the Coimbatore Court for disposal.

4.The abovesaid transfer request of the petitioner is seriously contested by the respondent by contending the allegation put forth by the petitioner that she apprehends danger to her life and body at the hands of the respondent is false and on the other hand, it is the case of the respondent that it is he, who had been threatened with dire consequences by the petitioner and her men at Chennai and therefore, prayed for the dismissal of the transfer petition.

5.The main reason projected by the petitioner for transfer is that she apprehends danger to her life and body at the hands of the respondent in coming down to Chennai to defend the divorce proceeding. Equally, the respondent also had expressed danger to his life and body at the instance of the petitioner and her men and accordingly, prayed for the dismissal of the transfer petition.

6. During the course of arguments, the respondent's counsel fairly put forth a suggestion that the Court may choose a midway place for enabling both the parties to attend the proceeding smoothly without any inconvenience and accordingly, prayed for necessary orders in connection with the same. In that manner, he had suggested that the proceeding be transferred to Salem Court. It was suggested by the Court that both the parties may not be prejudiced, if the proceeding is transferred to Thiruvannamalai Court. However, the petitioner's counsel contended that the proceeding should not be transferred to any midway Court and on the other hand, as prayed for the proceeding should be transferred only to Coimbatore Court and not elsewhere. Considering the facts and circumstances of the case, it is found that the petitioner is not justified in seeking the transfer only to Coimbatore Court and not to any other Court.

7. Considering the nature of the proceeding between the parties and also the apprehension projected by the respective parties, at the hands of the other, it is seen that both the parties should be given a fair treatment in the conduct of the abovesaid proceeding. In such view of the matter, in my considered opinion and in the interest of justice, if the proceeding is tried in a Court situated midway between the place of residence of the petitioner and the respondent, no serious prejudice as such would be caused to either of them.

8. Accordingly, taking into account the abovesaid factors, HMOP No.2378 of 2017 is withdrawn from the file of the I Additional Family Court, Chennai and transferred to the file of the Principal Sub-Court, Thiruvannamalai for disposal according to law.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP No.13154 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms 03.09.2018

To

1. The I Additional Family Court, Chennai.
2. The Family Court, Coimbatore District.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 533 of 2018
and
CMP.No.13154 of 2018

03.09.2018

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To
The Hon'ble Mr.Justice T.RAVINDRAN

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