

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2018

PRONOUNCED ON : 11.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.540 of 2018

and

CMP.No.13294 of 2018

T.Vasupradha ... Petitioner

Vs.

R.Ramachandran ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.2508 of 2015 on the file of the 1st Additional Family Court, Chennai and transfer to Principal Family Court, Chennai, pending joint trial along with M.C.No.429 of 2017 and HMOP No.3461 of 2017.

For Petitioner : Mr.C.Subramanian

For Respondent : Mr.S.N.Subramani

ORDER

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

2.The petition has been laid by the petitioner seeking to withdraw the HMOP No.2508 of 2015 along with M.C.No.429 of 2017 and HMOP No.3461 of 2017 from the file of the first Additional Family Court, Chennai and transfer the same to any other Family Court, Chennai.

3.As could be seen from the materials placed on record, it is seen that by way of the order of the High Court in CRP (PD).No.4647 of 2017 dated 18.12.2017, the abovesaid three proceedings had been ordered to be taken up for joint trial and it is also noted that the High Court, accordingly, had directed the trial Court to conclude the above cases as expeditiously as possible. Thus, it is found that when there is a direction from the High Court to the Court below, for an expeditious disposal of the abovesaid matters, the direction is not meant only to the concerned Court and on the other hand, the direction should also be read as a direction to the parties involved in the matters as well as their respective counsel. In such view of the matter, it is found that all concerned should endeavour to comply with the direction of the High Court and ensure that the matters get concluded as expeditiously as possible.

4.As per the direction of the High Court, it is seen that the abovesaid matters had been taken up for joint trial. The grievance of the petitioner seems to be that the presiding officer of the first additional Family Court, is not accommodative to the petitioner in granting the adjournment as prayed for and on the other hand, insisting that the matters should be proceeded on day to day basis without unnecessary adjournment and it is her grievance that despite the inability of the petitioner to attend

the proceedings on account of health reason and even then, the concerned presiding officer is not lenient in accommodating her request for adjournment and on the other hand, it is stated that the officer had deputed a police constable to ensure the presence of the medical officer from whom the petitioner had obtained a certificate to project her case of her illness and furthermore, the officer had also refused to allow further time for the cross examination of the respondent (PW1) and closed his evidence and posted the matter for the further evidence of the respondent and thereby, apprehending that she may not be able to get justice from the concerned Court, accordingly, the present transfer petition has come to be laid by the petitioner.

5.The abovesaid transfer request projected by the petitioner is stoutly resisted by the respondent contending that despite the direction of the High Court to conclude the proceedings as expeditiously as possible, the petitioner had been taking several adjournments one way or the other and not endeavouring to cross examine the respondent and on the other hand, is only making attempts to cross examine in part and also filing petition for reopening the matter one way or the other and accordingly, seeing the delaying tactics adopted by the petitioner one way or the other, it is his contention that the lower Court, after showing sufficient indulgence, had refused to grant further adjournment to the petitioner and thereby, was pleased to close PW1's evidence and therefore, it is stated that the reasons now projected by the petitioner as if the lower Court has become prejudicial to her interest and therefore, the transfer should be made to the other Court, as such, should not be countenanced and according to him, only with a view to delay the proceedings endlessly, the present transfer petition has come to be laid by the petitioner.

6.As abovenoted, despite the direction of this Court to conclude the disposal of the matters involved as expeditiously as possible, it is found that the petitioner has been seeking adjournments one after the other and thereby, delaying the proceedings. Accordingly, it is seen that the Court below had refused to accommodate the adjournment requests of the petitioner and in such view of the matter, it is found that despite the same, as the petitioner is deliberately delaying the proceedings one way or the other, left with no other alternative, it is found that the Court below had closed the evidence of PW1 as the petitioner had refused to proceed with the further cross examination of PW1 in the manner known to law. In such view of the matter, the contention of the petitioner that on account of the same, the officer concerned had become prejudicial against her and she may not get justice from the concerned Court and therefore, the matters should be transferred to the other Court, as such, cannot be countenanced. If this type of request for transfer is entertained, no Court would be able to function smoothly and the officers of the concerned Court would be at the mercy of the litigants one way or the other. From the materials placed on record, when it is seen that despite the direction of this Court, the petitioner seems to be delaying the proceedings further without sufficient cause, I am unable to accept the request of the petitioner to effect the transfer prayed for. As rightly put forth by the respondent, this petition is only intended for wielding a threat to the presiding officer to act to the tunes or the dictates of the petitioner one way or the other and thereby, hinder the process of the trial of the proceedings before the Court below. In my considered opinion, such acts of the petitioner should be nipped in the bud and not entertained at any cost.

7.For the reasons aforestated, there is no valid cause projected by the petitioner for accepting the transfer request.

Resultantly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected CMP No.13294 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms 11.09.2018

To

1.The 1st Additional Family Court, Chennai.

2.The Principal Family Court, Chennai.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 540 of 2018
and
CMP.No.13294 of 2018

11.09.2018