

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.09.2018

PRONOUNCED ON : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.545 of 2018

and

CMP.No.13491 of 2018

B.V.Latha ... Petitioner

Vs.

R.Senthil Raja ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.107 of 2018 on the file of the Hon'ble Sub Court, Kallakurichi and transfer the same to the Hon'ble III Additional Judge, Family Court, Chennai (to be tried alongwith M.C.No.292 of 2018)

For Petitioner : Mr.D.Palani

For Respondent : Mr.C.Deivasigamani

ORDER

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

2.All is not well qua the marital life of the petitioner and the respondent.

3.It is found that the petitioner has laid maintenance case against the respondent in M.C.No.292 of 2018 and the same is pending on the file of the file of the III Additional Family Court, Chennai. The respondent has levied divorce case against the petitioner in HMOP No.107 of 2018 and the same is pending on the file of the Sub-Court, Kallakurichi.

4.Putting forth certain inconvenience and hardship in attending the proceeding at Kallakurichi on the ground that the distance between the petitioner's residence at Chennai and Kallakurichi is on the higher side and the petitioner is unable to travel alone and she is financially, mentally and physically weak and also taking treatment on account of her health problem, accordingly, had come forward with the present petition seeking the transfer of the proceeding from Kallakurichi Court to Chennai Court.

5.Further, it is also stated by the petitioner that the respondent is working at Singapore and thereby, by way of transferring the proceeding from Kallakurichi to Chennai Court, he may not be put to any inconvenience and hardship and also no prejudice would be caused to him by way of the abovesaid transfer.

6.The respondent has not disputed that he is working at Singapore. However, it is stated that during the course of arguments, he left his job at Singapore and seeking for a job elsewhere, accordingly, it is found that when the proceeding had been laid by the petitioner against the respondent for maintenance and the same is pending on the file of the Family Court, Chennai, the respondent would be required to defend the said proceeding at Chennai Court. In such view of the matter, if the proceeding of divorce made by the respondent at Kallakurichi is transferred to Chennai Court, by way of the same, as such no serious prejudice would be caused to the respondent. Furthermore, as rightly putforth, common issues would arise for consideration in both the proceedings one way or the other and in such view of the matter, it is seen that if both the proceedings are tried and determined by one and the same Court, no serious prejudice would be caused to the respondent, furthermore, by way of the same, conflict of decisions could be avoided. That apart, the parties also would be required to adduce common evidence, if need be, in both the proceedings, further more, the petitioner has also put forth certain inconvenience and hardship in attending the proceeding at Kallakurichi Court. The distance between Chennai and Kallakurichi is also found to be on the higher side. Accordingly, it is found that the petitioner would be put to some inconvenience and hardship in attending the proceeding at Kallakurichi.

7.Considering the fact that the respondent is employed at Singapore or on looking up for a job elsewhere as projected during the course of arguments, in such view of the matter, in all, it is seen that considering the allied proceeding laid by the wife is already pending on the file of the Family Court, Chennai, in my considered opinion, for the reasons aforesaid, if the divorce proceeding laid by the respondent is also transferred to the Family Court, Chennai, the same would be beneficial to both the parties and the cause of justice would be advanced by way of the same as abovestated.

8.For the reasons aforesaid, HMOP No.107 of 2018 is withdrawn from the file of the Sub-Court, Kallakurichi and transferred to the file of the III Additional Family Court, Chennai, for disposal according to law.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP No.13491 of 2018 is closed.

18.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Sub Court, Kallakurichi.
- 2.The III Additional Family Court, Chennai.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.545 of 2018
and
CMP.No.13491 of 2018

18.09.2018