

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.09.2018

PRONOUNCED ON : 17.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.553 of 2018

M.Uma Maheswari ... Petitioner
Vs.

V.M.Suresh ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.3697 of 2017 pending on the file of the learned IV Family Court at Channai and to transfer the same to the Learned Family Court at Vellore.

For Petitioner : Mr.T.Sundaravadanam
For Respondent : Mr.A.R.Sakthivel

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.Accordingly, it is noted that the respondent has filed divorce petition against the petitioner in HMOP No.3697 of 2017 and the same is pending on the file of the IV Additional Family Court, Chennai.

4.It is also noted that the petitioner has laid FCOP No.155 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the Family Court, Vellore.

5.Seeking the transfer of the divorce proceeding of the respondent from Chennai Court to Vellore Court, the present transfer petition has come to be laid by the petitioner on the footing that the petitioner is residing at Vellore and experiencing certain difficulty and hardship in attending the proceeding at Chennai Court and also would state that the respondent is financial sound and therefore, he would not be experiencing any difficulty, if the proceeding is transferred to Vellore Court and accordingly, prayed for the transfer.

6.The respondent's counsel contended that the petitioner's request for transfer is not bonafide and he would point out that the petitioner has filed the counter in the divorce proceeding laid by the respondent almost submitting to the decree and only later on the evil advice of others, the petitioner has filed the petition for restitution of conjugal rights at Vellore Court against the respondent and such being the position, according to him, the transfer request of the petitioner should not be acceded to. Further, he would also state that the respondent is employed and therefore, he may find it difficult to attend the proceeding at Vellore Court in the event of the proceeding being transferred to Vellore Court.

7. In this matter, we are not to decide the merits of the matrimonial proceeding laid by the respective parties against each other. As regards the marital issues pending between the parties, it is found that two proceedings are pending in two different forums. In such view of the matter, as common issues would arise in both the proceedings, in my considered opinion, the consolidation of the proceedings together and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided and furthermore, the parties also would be required to adduce common evidence in both the proceedings. Thus, it is found that the interest of justice would be advanced, if the proceedings are heard and determined by one and the same Court.

8. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Chennai Court. Admittedly, the proceeding laid by the petitioner against the respondent is pending in the Vellore Court. Thus, it is found that the respondent would be required to attend the proceeding at Vellore Court. In such view of the matter, if the proceeding at Chennai Court is also transferred to Vellore Court, it is found that as such no serious prejudice would be caused to the respondent in attending both the proceedings at Vellore Court. Thus, it is found that the conduct of the proceedings laid by the parties at Family Court, Vellore would be in the interest of both the parties. No doubt, the respondent had put forth certain inconvenience in attending the proceedings at Vellore Court on the footing that he may not be able to obtain leave from his office. But that alone would not be the factor for refusing the transfer request of the petitioner. Furthermore, the respondent being represented an able advocate, it is found that he could make necessary arrangements for conducting the proceeding at Vellore Court and thereby, it is seen that no serious prejudice would be caused to the respondent, if the proceeding is transferred to Vellore Court as prayed for.

9. Considering the reasons above discussed, HMOP No.3697 of 2017 is withdrawn from the file of the IV Additional Family Court at Chennai and transferred to the file of the Family Court, Vellore for joint trial alongwith HMOP No.155 of 2018 as per law.

Accordingly, the Transfer Miscellaneous Petition is allowed. Consequently, connected civil miscellaneous petition, if any, is closed.

17.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

1. The IV Family Court at Chennai.
2. The Learned Family Court at Vellore.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in
Transfer CMP.No.553 of 2018

17.09.2018