

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.09.2018

PRONOUNCED ON:14.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.554 of 2018
and
C.M.P.No.13609 of 2018

K.Premavathi ... Petitioner

Vs.

N.Madhan Kumar ... Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.5 of 2018 pending on the file of Sub Court, Thiruchengode and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.K.C.Karl Marx
For Respondent : Mr.P.Ramesh Kumar

O R D E R

Petitioner is the wife. Respondent is the husband.

2. The respondent has laid the H.M.O.P.No.5 of 2018 against the petitioner for dissolution of marriage and the same is pending on the file of the Subordinate Court, Thiruchengode. Seeking transfer of the abovesaid proceeding from Thiruchengode Court to Coimbatore Court where the petitioner is residing, the present Transfer Civil Miscellaneous Petition has come to be laid by the petitioner. Now according to the petitioner, she has to look after her child and unable to travel from Coimbatore to Thiruchengode and therefore prayed for the transfer of the proceeding from Thiruchengode Court to Coimbatore Court. Further, it is stated that the respondent has not paid any maintenance for the living of the petitioner and her child.

3. The respondent contested the request of the petitioner contending that there is no need on the part of the petitioner to attend all the hearing dates of the proceeding and furthermore, it is also stated that the distance between

Thiruchengode and Coimbatore is not on the higher side and therefore, no serious prejudice would be caused to the petitioner, if the proceeding is allowed to be continued at Thiruchengode Court and hence prayed for the dismissal of the transfer petition.

4. Considering the nature of the proceeding pending at Thiruchengode Subordinate Court, in my considered opinion and as rightly put forth by the respondent's counsel, there is no need for the petitioner to attend all the hearing dates in person. The petitioner being represented by an able advocate, it is seen that her advocate would be able to manage the show in attending the proceeding at Thiruchengode Subordinate Court, during her absence, as per the instructions received from the petitioner now and then and at the most, the petitioner's presence would be required only on the hearing date when her evidence is to be recorded in support of her case. Further, the distance from Thiruchengode Court to Coimbatore is not found to be on the higher side. It is thus found that the distance factor projected by the petitioner for seeking the transfer, as such, cannot be accepted.

5. The petitioner complains that the respondent has not paid maintenance to her and her child and the same is also projected as one of the reasons for seeking the transfer. However, as rightly argued by the respondent's counsel, if at all the petitioner and her child are entitled for maintenance, they should file necessary petition before the concerned court with reference to the same, in the manner known to law. Equally, as regards the litigation expenses that the petitioner may incur in defending the proceeding at Thiruchengode court, it is always open to the petitioner to move the concerned court for the payment of necessary litigation expenses as per law.

6. For the reasons aforesaid, no sufficient cause is projected by the petitioner for seeking transfer and accordingly the transfer request of the petitioner is declined. Resultantly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Deputy Registrar

// True Copy//

Sub Assistant Registrar

mfa

To

1. The Sub Court, Thiruchengode.

+1cc to Mr.P.Ramesh kumar, Advocate SR.No.63905

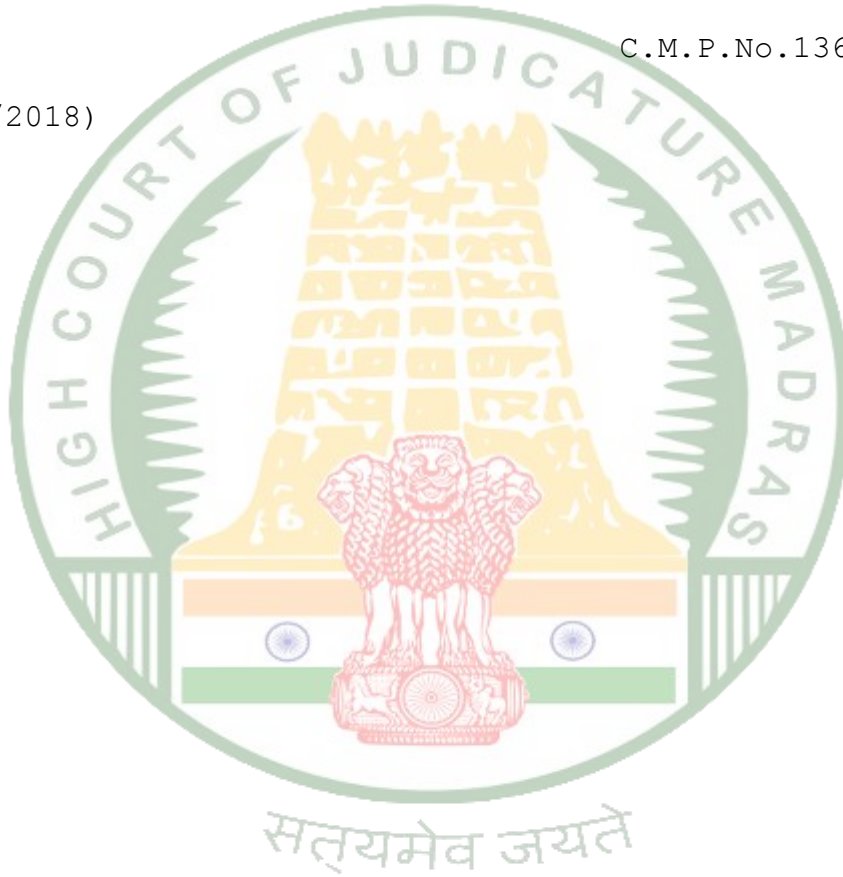
+1cc to Mr.K.C.Karl marx , Advocate SR.No.63621

Tr.C.M.P.No.554 of 2018

and

C.M.P.No.13609 of 2018

RMP (27/09/2018)



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