

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.09.2018

PRONOUNCED ON : 17.09 .2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

TR CMP.559/2018

and

CMP.13729/2018

Mrs. S.Divya

...Petitioner

Vs.

Mr. S.Murugan

...Respondent

Prayer:

Transfer CMP is filed under Section 24 of Civil Procedure Code, praying to withdraw HMOP. No.30/2017 pending on the file of Subordinate Court, Kanchipuram and transfer the same to be tried jointly along with OP 4522 of 2016 pending on the file of IV Additional Family Court, Chennai.

For Petitioner : Mr.A.Ganesan

For Respondent : No apperance.
Set exparte vide order
dated 11.09.2018

ORDER

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

2. All is not well qua the marital life of the abovesaid parties.

3. The materials placed on record go to show that HMOP No.30 of 2017 has been laid by the respondent against the petitioner for divorce and the same is pending on the file of Subordinate Court, Kanchipuram. It is further seen that OP 4522 of 2016 has been laid by the petitioner against the respondent for restitution of conjugal rights and the same is pending on the file IV Additional Family Court, Chennai. Seeking transfer of the proceedings pending on the file of Kancheepuram Court to Chennai Court for joint trial along with the OP preferred by her, the petitioner has come forward with the transfer petition.

3. The petitioner has expressed certain inconvenience and hardship in attending the proceeding at Kancheepuram. Furthermore, it is also stated by the petitioner that the respondent is working at Chennai and also stationed at Chennai. The respondent, though, has been served in this matter, has not chosen to enter appearance either in person or through an advocate and contest the transfer request of the petitioner as such. In as much as the transfer request of the petitioner is genuine and bonafide, the respondent has not shown any endeavour to contest the transfer petition.

4. Furthermore, as regards the marital issues between the parties, two proceedings are pending in two different forums and in as much as common issues arise in both the proceedings as between the parties, in my considered opinion, the consolidation of two proceedings and determination of the same by one and the same court would be in the interest of the parties and by way of the same conflict of decisions could also be avoided. That apart, the parties would also be required to adduce common evidence in both the proceedings. Thus it is found that interest of justice would be advanced if both the proceedings are tried together by one and the same court.

5. As already noted, the respondent is stated to be working at Chennai and also stationed at Chennai. Thus, it is found that no serious prejudice would be caused to the respondent if the proceedings abovestated are tried and determined by the court at Chennai. Accordingly, it is seen that the respondent has not endeavoured to contest the transfer request of the petitioner.

6. For the reasons above stated, HMOP. No.30/2017 is withdrawn from the file of Subordinate Court, Kanchipuram and transferred to the file of IV Additional Family Court, Chennai for joint trial along with OP 4522 of 2016 as per law.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

bga

To

- 1.The Subordinate Court, Kanchipuram
- 2.The IV Additional Family Court, Chennai

+lcc to Mr.A.Ganesan, Advocate, S.R.No.64123

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and
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rrs 01/10/2018



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