

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.08.2018

PRONOUNCED ON : 13.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Tr.CMP.No. 560 of 2018
and
CMP.No.13730 of 2018

Shobana ... Petitioner

Vs.

Rajesh Kumar Respondent

Prayer :-

Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the proceedings pending on the file of the Principal Sub-Court Cuddalore in HMOP No.130/2017 and transfer the same to the Sub-Court, Tambaram.

For Petitioner : Mr.Vimal B.Crimson

ORDER

The petitioner has preferred the abovesaid transfer petition seeking to transfer the HMOP No.130 of 2017 filed by the respondent and pending on the file of the Principal Sub-Court, Cuddalore to the Sub-Court, Tambaram.

2. The petitioner is wife. The respondent is husband. It is found that as per the case of the petitioner, the respondent has preferred HMOP.No.130 of 2017 against the petitioner seeking divorce and the said case is pending on the file of the Principal Sub-Court Cuddalore. It is seen from the averments contained in the affidavit appended to the petition, the petitioner had already entered into appearance in the abovesaid proceedings and been taking time for filing counter.

3. At that stage of the matter, the present petition has come to be laid by the petitioner seeking transfer of the abovesaid HMOP pending on the file of the Principal Sub-Court, Cuddalore to the file of the Sub-Court, Tambaram, on the footing that since she is stationed at Chennai and Cuddalore is located about 175 kilometers away from Chennai, the petitioner finds it

difficult to attend the hearing dates of the abovesaid proceeding at Cuddalore and further, it is stated by the petitioner that she also apprehends danger to her life, while travelling to Cuddalore for the purpose of attending the Court hearings and also stated that she is unable to bear the travelling expenses and on the abovesaid grounds has come forward with the petition seeking transfer. However, as abovenoted, when the petitioner has already entered appearance in the proceeding pending before the Principal Sub-Court, Cuddalore and the abovesaid proceeding had been laid by the respondent against the petitioner for divorce, it is found that considering the nature of the proceeding, it is unnecessary on the part of the petitioner to be physically present on each and every hearing date, the petitioner having entered appearance through an able advocate in the abovesaid proceeding, it is seen that the advocate would be looking after the case of the petitioner on her behalf and only at the stage of trial, the petitioner's presence would be required to adduce evidence in support of her case. In such view of the matter, the reasonings of the petitioner that the proceeding pending before the Principal Sub-Court, Cuddalore should be transferred to the file of the Sub-Court, Tambaram on the footing that she is unable to travel to Cuddalore for attending the hearing dates as such cannot be readily accepted.

4. As regards, the apprehension of the petitioner that there is no guarantee to her life while she proceeds to Cuddalore for attending the hearing dates, however, with reference to the abovesaid allegations, there is no material worth acceptance placed by the petitioner. Merely from the bare allegations, we cannot be construe that the respondent is projecting any threat to her life or body during her visit to Cuddalore on the hearing dates. Thus, the abovesaid ground without any foundation as such cannot be accepted. If really, the petitioner had apprehended any harassment at the hands of the respondent at any point of time, she would have preferred necessary legal action against the respondent in the manner known to law. However, there is no such action initiated by the petitioner as regards the abovesaid facts. Therefore, the abovesaid ground cannot be the basis for accepting the transfer petition of the petitioner.

5. The third ground projected by the petitioner that she is unable to bear the travel expenses for attending the hearing dates at Cuddalore Court. As abovenoted, when the petitioner is not required to be present physically on all the hearing dates and would only be required to be present during the hearings when the matter is posted for tendering her evidence, in such view of the matter, the contention that she would be unable to bear the expenses for travelling to Cuddalore as such cannot be

readily countenanced. Furthermore, as regards the litigation expenses, she can always move the concerned Court for necessary redressal if she is entitled to the same as per law.

6. It is not the case of the petitioner that the Principal Sub-Court, Cuddalore is not having the jurisdiction to try the divorce proceeding initiated by the respondent against her. In such view of the matter, when the Principal Sub-Court, Cuddalore is all competent to try the proceeding, when the reasons projected by the petitioner for seeking the transfer of the abovesaid proceeding to the Sub-Court, Tambaram not being acceptable and also not substantiated with acceptable materials, in my considered opinion, the request for transfer cannot be acceded to.

For the reason aforesaid, the transfer Civil Miscellaneous Petition is dismissed. No costs. Connected CMP.No.13730 of 2018 is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sms

To

1.The Principal Sub-Court, Cuddalore.

Tr.CMP.No. 560 of 2018
and
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CS/04/09/18

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