

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 11.09.2018
PRONOUNCED ON : 18.09.2018

CORAM
THE HONOURABLE MR. JUSTICE T.RAVINDRAN

TR CMP.561/2018
and
CMP.13731/2018

R.Alagurani

...Petitioner

Vs.

T.Ravikumar

...Respondent

Prayer:

Transfer CMP filed under Section 24 of Civil Procedure Code, praying to withdraw HMOP. No.101/2018 from the file of the Sub Court, Pollachi and transfer to the family court, Chennai.

For Petitioner : Mr.S.Packiaraj

For Respondent : Mr.D.R.Arun Kumar.

ORDER

The petitioner is the wife.

2. The respondent is the husband.

3. It is found that the respondent has laid HMOP No.101 of 2018 against the petitioner seeking restitution of conjugal rights pending on the file of the sub court, Pollachi. Seeking transfer of the abovesaid proceeding from Pollachi Court to Chennai Court, the present transfer petition has come to be laid by the petitioner.

4. Now, according to the petitioner, she has certain medical problems and suffering permanent disability due to rip and hip fracture and therefore unable to travel to Pollachi Court for attending the court proceeding of restitution of conjugal rights filed against her by the respondent and accordingly sought for the transfer of the proceeding as prayed for. Furthermore, it is also the case of the petitioner that considering the distance between her residence and Pollachi Court being on the higher side and on that ground also she has sought for the transfer of the proceeding to Chennai Court.

5. To establish that the petitioner is not normal and she had been taking treatment for health problems suffered by her, the petitioner has placed materials on record. Thus, it is found that the petitioner has projected a valid case of transfer of the proceeding to Chennai Court on the ground of ill health.

6. The respondent's counsel contented that, by continuing the proceeding at Pollachi Court, no serious prejudice would be caused to the petitioner and accordingly prayed for the dismissal of the transfer petition.

7. It is found that the petitioner has also laid a criminal case in DVC No.66/2018 against the respondent and the same is pending on the file of the Judicial Magistrate, Mahila Court, Allikulam. Accordingly, it is found that the respondent would be required to attend the abovesaid proceedings at Chennai Court. In such view of the matter, it is found that by way of transferring the matrimonial proceeding to Chennai Court, no serious prejudice would be caused to the respondent.

8. During the course of arguments, it was suggested by the respondent's counsel that the court, in the event of accepting the transfer request, may order the proceedings be tried and determined by the court located midway to the respective parties. However, when the ill health has been projected by the petitioner for seeking the transfer to Chennai Court and the same is also substantiated with acceptable materials, in my opinion, the transfer request of the petitioner of the proceeding to the Chennai Court is found to be justifiable. As above noted, when the respondent would be required to attend the DVC proceeding laid against him by the petitioner at Chennai Court, no serious prejudice would be caused to him in having the proceeding conducted at Chennai Court.

9. For the reasons abovestated, HMOP. No.101/2018 is withdrawn from the file of the Sub Court, Pollachi and transferred to the file of Principal family court, Chennai for disposal according to law.

10. 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 Sub Court, Pollachi
- 2.The Family Court, Chennai

+2cc to Mr.S.Packiaraj, Advocate, S.R.No.64868.

+1cc to Mr.D.R.Arunkumar, Advocate, S.R.No. 64734.

TR CMP.561/2018

and

CMP.13731/2018

rrs 01/10/2018



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