

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.08.2018

PRONOUNCED ON : 27.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 565 of 2018

and

CMP.No.13784 of 2018

Anandhajothe ... Petitioner

Vs.

K.Saravanan ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.65 of 2013 on the file of the Sub-Court, Kallakurichi, Villupuram and to transfer the same to the Sub-Court, Attur, Salem District.

For Petitioner : Mr.N.Vijay Baskar
For Respondent : Mr.Anand Subramaniam

ORDER

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

2.The petitioner has levied maintenance case against the respondent in M.C.No.19 of 2013 and the same is pending on the file of the Judicial Magistrate Court No.I, Attur, Salem District. It is found that in the said case, maintenance has been ordered in favour of the petitioner and to enforce the same, according to the petitioner, she has preferred necessary petition against the respondent as the respondent had evaded to pay the maintenance amount as ordered by the Court.

3.In the meanwhile, it is found that the respondent has levied HMOP No.65 of 2013 against the petitioner for divorce and the same is pending on the file of the Sub-Court, Kallakurichi, Villupuram.

4.Putting forth the case that the respondent has levied the abovesaid divorce proceeding against her only with a view to cause hardship to the petitioner and also stating that the petitioner living at Attur would find it difficult to travel to Kallakurichi for attending the divorce proceeding and accordingly, the petitioner has come forward with the present transfer petition.

5.The respondent's counsel contended that no serious prejudice would be caused to the petitioner, if the divorce proceeding is continued at Kallakurichi Sub-Court and it is his further contention that the maintenance case levied by the petitioner had come to an end.

6.However, as seen from the submissions put forth by the respective parties, though the maintenance case levied by the petitioner had been disposed of in favour of the petitioner, inasmuch as the respondent had evaded to pay the amount of maintenance as ordered by the Court, with a view to enforce the said order, it is found that the petitioner has preferred necessary petition in the concerned Court and the same is pending. Accordingly, it is found that the maintenance case is pending one way or the other before the Judicial Magistrate Court No.I, Attur. In such view of the matter, it is found that the respondent would be required to attend the abovesaid proceeding to putforth his case with reference to his liability to pay the maintenance amount ordered in favour of the petitioner.

7.As above seen, the divorce proceeding has been laid by the respondent and in such view of the matter, when it is found that the issues that may crop up between the parties in the divorce proceeding as well as in the maintenance case would be more or less similar and in such view of the matter, when it is seen that the respondent would be required to attend the proceeding pending before the Attur Magistrate Court, as rightly put forth by the petitioner's counsel by way of the transferring the divorce proceeding from Kallakurichi Court to the Attur Court, no serious prejudice would be caused to the respondent. Further, considering the fact that the respondent has not even cared to pay the maintenance amount ordered in favour of the petitioner, if the petitioner is again burdened with the task of travelling to Kallakurichi Court for attending the divorce proceeding repeatedly, she would be put to continuous distress and hardship and the same could be avoided, if the divorce proceeding is transferred to the file of the Court at Attur. Thus, it is seen that the interest of justice would require the acceptance of the transfer request projected by the petitioner on considering the facts and circumstances of the case.

8.In the light of the above factors, HMOP No.65 of 2013 is withdrawn from the file of the Sub-Court, Kallakurichi and transferred to the file of the Sub-Court, Attur, Salem District for disposal according to law.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP No.13784 of 2018 is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sms

27.08.2018

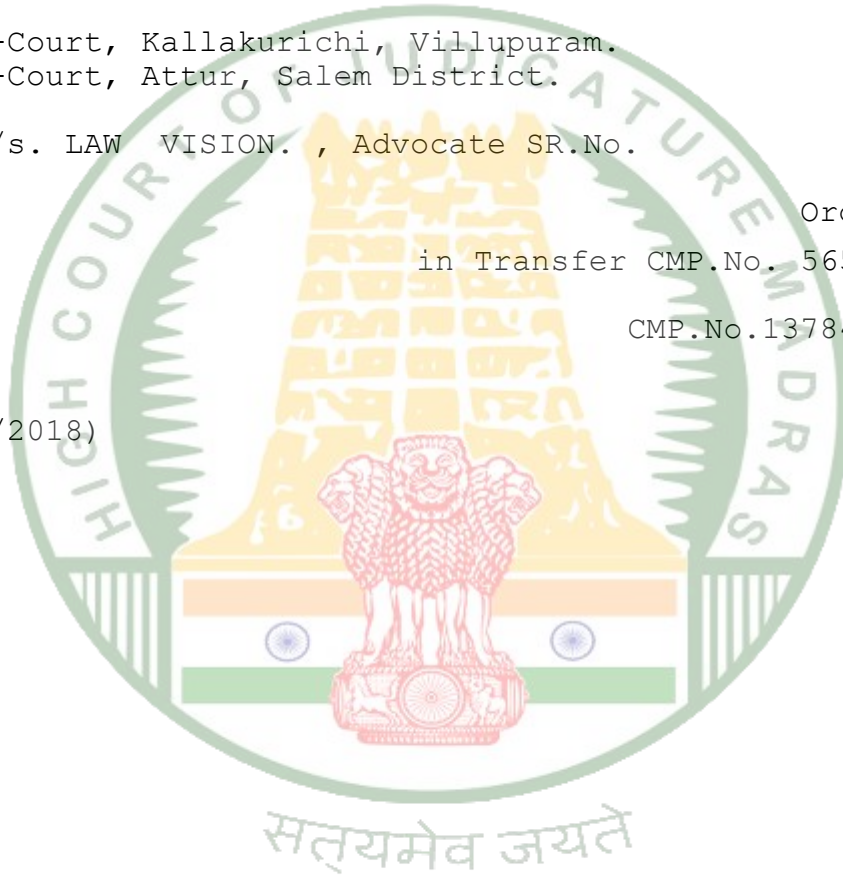
To

- 1.The Sub-Court, Kallakurichi, Villupuram.
- 2.The Sub-Court, Attur, Salem District.

+1cc to M/s. LAW VISION. , Advocate SR.No.

Order made
in Transfer CMP.No. 565 of 2018
and
CMP.No.13784 of 2018

ASK(11/09/2018)



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