

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.09.2018

PRONOUNCED ON : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.571 of 2018

and

CMP.No.13883 of 2018

Devaki ... Petitioner

Vs.

V.Navaneethan ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the petition MOP No.206 of 2018 from the file of the Hon'ble Family Court, Puducherry to Hon'ble Principal Subordinate Court, Kumbakonam.

For Petitioner : Mr.M.Kavikannan

Respondent : No Appearance

Set exparte vide order

dated 14.09.2018

ORDER

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

2.All is not well qua the marital life of the petitioner and the respondent.

3.It is found that the respondent has laid divorce petition against the petitioner in HMOP No.206/2018 and the same is pending on the file of the Family Court, Puducherry. The petitioner has levied petition in HMOP No.139 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the Sub-Court, Kumbakonam.

4.Materials placed on record go to show that the petitioner has already laid maintenance case against the respondent in MC No.90 of 2015 on the file of the Judicial Magistrate, Kumbakonam and she has been awarded maintenance by the Court. According to the petitioner, despite the said order, the respondent has not paid the maintenance to her and therefore, she has filed execution petition for claiming the same against the respondent.

5.In such view of the matter, though the respondent has been served, he has not chosen to enter appearance and contest the transfer request of the petitioner. Accordingly, it is seen that inasmuch as the transfer request of the petitioner is bonafide and acceptable, the respondent has not evinced to contest the same.

6.Thus, it is found that two proceedings are pending as regards the marital issues between the parties in two different forums. In such view of the matter, the consolidation of two proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Furthermore, if the two proceedings are jointly tried, the parties would be required to adduce common evidence with reference to the same. Therefore, the interest of justice would be advanced, if the two matters are consolidated, tried and determined by the same Court.

7.The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Puducherry Court and the same is not controverted by the respondent. The conduct of the respondent in not challenging the transfer request of the petitioner would go to show that he has no prejudice in the proceeding being tried and determined at Kumbakonam Court, where already the proceeding laid by the petitioner is pending and it is noted that the respondent is facing maintenance claim laid by the petitioner in the Judicial Magistrate Court, Kumbakonam. Thus, it is seen that the respondent would be required to attend the Kumbakonam Court in respect of the abovesaid proceeding.

8.In the light of the above factors, it is found that the petitioner has made out a sufficient cause for effecting the transfer request prayed for. Resultantly, the MOP No.206 of 2018 is withdrawn from the file of the Family Court, Puducherry and transferred to the file of the Principal Subordinate Court, Kumbakonam, for disposal according to law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently connected CMP.No.13883 of 2018 is closed.

18.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Family Court, Puducherry.
- 2.The Principal Subordinate Court, Kumbakonam.

T.RAVINDRAN, J.

sms

Pre-delivery Order made  
in Transfer CMP.No.571 of 2018  
and  
CMP.No.13883 of 2018

18.09.2018