

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2018

PRONOUNCED ON : 10.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 59 of 2018

and

CMP.No.1516 of 2018

Aparna ... Petitioner

Vs.

Balanand ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the case in HMOP No.165 of 2016 on the file of the Principal Sub-Court at Cuddalore, Cuddalore District to be transferred to Sub-Court at Tambaram, Kancheepuram District to be tried along with HMOP.No.899 of 2017 filed by the petitioner.

For Petitioner : Mr.S.Vijayakumar

For Respondent : Mr.B.Gopalakrishnan

ORDER

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

2.The marital life of the parties is not cordial.

3.The respondent has levied HMOP No.165 of 2016 for restitution of conjugal rights against the petitioner and the same is pending on the file of the Principal Sub-Court at Cuddalore.

4.It is further seen that the petitioner has levied divorce proceeding against the respondent and the same is pending on the file of the Sub-Court, Tambaram in HMOP No.899 of 2017.

5.Putting forth the case that the petitioner is employed at United Kingdom and therefore, would not be in a position to attend the proceeding at Cuddalore Court, accordingly, has come forward with the present petition seeking the transfer of the proceeding pending at Cuddalore Court to Tambaram Court for joint trial of the abovesaid proceedings. The abovesaid request of the petitioner is contested by the respondent by putting forth the case that inasmuch as the petitioner is employed at United Kingdom, there is no need for effecting the transfer as prayed for and the continuation of the proceeding at Sub-Court, Cuddalore, would not cause any loss and hardship to the petitioner. However, it is noted that the two proceedings are pending in different forums as regards the marital issues of the parties concerned. Accordingly, it is seen that the consolidation of the 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 be avoided. Thus, it is found that the interest of justice would be served better, if both the proceedings are tried and determined by one and the same Court.

6. Noting the abovesaid factors, both the counsel during the course of arguments put forth the suggestion that this Court may transfer both the proceedings to Chennai Court for disposal as per law and stated that by way of conducting both the proceedings at Chennai Court, neither of them would be prejudiced in any manner or put to any loss and hardship.

7. Considering the above suggestions put forth by the counsel appearing for the parties as well as the convenience that may enure to the benefit of the parties if both the proceedings are jointly tried at Chennai Court, accordingly, HMOP No.165 of 2016 is withdrawn from the file of the Principal Sub-Court, Cuddalore and HMOP No.899 of 2017 is withdrawn from the file of the Sub-Court, Tambaram and the abovesaid two proceedings are transferred to the file of the Principal Family Court, Chennai for disposal jointly as per law.

Accordingly, the Transfer Civil Miscellaneous Petition is ordered. Consequently, connected CMP No.1516 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms 10.09.2018

To

1. The Principal Sub-Court at Cuddalore, Cuddalore District.

2. The Sub-Court at Tambaram, Kancheepuram District.

T.RAVINDRAN, J.

sms

Pre-delivery Order made

in Transfer CMP.No. 59 of 2018

and

CMP.No.1516 of 2018

10.09.2018