

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.08.2018

PRONOUNCED ON : 30.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 599 of 2018

and

CMP.No.14456 of 2018

P.Chinnathai

...

Petitioner

Vs.

V.Pzhani

...

Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the E.P.No.328 of 2010 in O.S.No.6048 of 2001 on the file of the Principal District Munsif Court, Villupuram and to transfer the same to the Assistant City Civil Court, Chennai.

For Petitioner : Mr.G.Sampath

ORDER

The petition has been laid by the petitioner seeking transfer of E.P.No.328 of 2010 in O.S.No.6048 of 2001 pending on the file of the Principal District Munsif Court, Villupuram to the file of the Assistant City Civil Court, Chennai, for disposal.

2.The reasons given by the petitioner for effecting the transfer are that the JD and his counsel and others had been threatening the petitioner's advocate and giving trouble to withdraw the case and in such view of the matter, as the petitioner/decreed holder apprehends that she may not get justice at Villupuram Court and accordingly, sought for the transfer of proceeding from Villupuram Court to City Civil Court, Chennai.

3.However, as regards the alleged threat meted out to the petitioner's counsel by the respondent, his advocate and others, there is no reliable material placed. Now, according to the petitioner, the threat had emanated from the respondent and his men right from 2009 onwards and therefore, it is contended that on account of the dilatory tactics adopted by the respondent, the petitioner is unable to realise the fruits of the decree by way of the execution petition and hence, the transfer should be effected. However, to substantiate the abovesaid allegations, the petitioner has not placed any

reliable materials and in such view of the matter, it is found that the transfer request of the petitioner cannot be readily accepted.

4. Along with the petition, the petitioner has filed the copies of the petitions preferred by the respondent to record part satisfaction of the amount tendered by him towards the decretal amount and she has also filed the complaint lodged by the respondent against the decree holder's counsel before the Bar counsel of Tamil Nadu, Chennai and the resolution thereof. Apart from the abovesaid documents, there is no other acceptable materials placed by the petitioner. To safely conclude that the threat had been made by the respondent, his counsel and men to the petitioner or his counsel posing danger either to their life or body, if really, any such threat had been made by the abovesaid persons, at this point of time, the petitioner or his counsel would have lodged necessary complaint against the respondent and his counsel and others, who had been involved in the abovesaid alleged illegal acts. However, other than the complaint lodged by the respondent to the Bar Counsel against the petitioner's advocate, no other valid material has been placed to hold that a threat had been put to the decree holder and his counsel to withdraw the execution proceeding. In such view of the matter, the reasons projected for transfer not having been buttressed by acceptable materials, the transfer request cannot be entertained.

5. The reasonings of the petitioner is that her advocate had been put to danger by the respondent and his men. However, in support of the said reason, the petitioner has not even endeavoured to file an affidavit of his advocate. The alleged threat is stated to be made by the respondent and his men right from 2009 onwards, to evidence that till date, the petitioner and his advocate had not taken any concrete legal action against them. This would only go to show that the abovesaid reasons are projected only for the purpose of transfer. Accordingly, it is found that the petitioner is unable to substantiate the grounds projected by her for basing the transfer request.

In view of the abovesaid reasons, I do not find any acceptance to effect the transfer sought for. Resultantly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected CMP No.14456 of 2018 is closed.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

sms

To

1.The Principal District Munsif Court, Villupuram.

+1cc to Mr.G.Sampath , Advocate SR.No. 59470

Order made  
in Transfer CMP.No. 599 of 2018  
and  
CMP.No.14456 of 2018

ASK(24/09/2018)



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