

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. 607 of 2018
and
CMP.No.14652 of 2018

B.Nirmala Devi ... Petitioner
Vs.
Dr.B.Balaji ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.804/2018 pending on the file of VI Family Court Judge at Chennai and transfer the same to Family Court, Coimbatore.

For Petitioner : Mr. M.Deivanandam

ORDER

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

2.The marital life between the parties is not pleasant.

3.It is found that the respondent has laid divorce proceedings against the petitioner in HMOP.No.804 of 2018 and the same is pending on the file of the VI Family Court, Chennai. The petitioner would contend that she is residing with her mother and her child at Coimbatore and further, would state that her mother frequently shifts between Batlagundu, Dindigul District and Coimbatore as her father is residing at Batlagundu, Dindigul District, thereby expressed certain inconvenience and hardship in travelling to Chennai from Coimbatore to attend the divorce proceeding laid against her and accordingly, seeking transfer of the same to the file of the Family Court, Coimbatore, has come forward with the present petition. As seen from the materials placed on record, it is seen that the respondent in HMOP No.804 of 2018 has given the address of the petitioner at Chennai and permanent address at Batlagundu, Dindigul District. The respondent, further, now contends that she is residing at Coimbatore with her mother having shifted from Batlagundu, Dindigul District, however, in the petition, she has given her address both at Chennai and her permanent address at Batlagundu, Dindigul District and would state that she is residing at Coimbatore. Thus , it is found that the petitioner has not controverted the case of the respondent that she is also residing at Chennai. In this matter, the petitioner has filed a copy of her Aadhar card to show that now, she is residing at Coimbatore.

4.Experiencing certain inconvenience and hardship in travelling to Chennai Court from Coimbatore, the present transfer petition has come to be laid by the petitioner. From the materials placed on record, it is found that the petitioner is an educated lady and having M.Tech degree and therefore, it is seen that relative hardship that has been focused by the petitioner in needing to travel to Chennai from Coimbatore as such cannot be readily accepted. Considering the nature of the proceeding pending before the parties at Chennai Court, it is seen that the petitioner's presence may not be required on all the hearing dates. The petitioner's presence would be required only at the time when her evidence is to be recorded in support of her case and that apart, the petitioner could also make other arrangement for attending the divorce proceeding at Chennai Court either by appointing a counsel or any other procedure, that is available as per law. In such view of the matter, the reasonings of the petitioner that inasmuch as she is staying at Coimbatore very faraway from Chennai, it would be difficult to travel Chennai to attend the divorce proceeding as such cannot be readily accepted. Furthermore, the financial constraints that are focused by the petitioner in attending the Family Court Chennai cannot be also readily accepted. If at all the petitioner is put to any financial distress as such, it is always open to the petitioner to approach the concerned Court with reference to the same, if she is entitled to seek the necessary legal redressal in that aspect. Therefore, it is found that the petitioner being an educated person and though she would claim that she is presently residing at Coimbatore but still not having refuted that she is not a resident of Chennai also and accordingly, given her Chennai address in the present transfer petition also, accordingly, it is seen that the petitioner cannot be allowed to seek the transfer of the proceeding laid by the respondent at every place she seeks to shift her residence and by way of the same, in my considered opinion, the same would only cause irreparable loss and hardship to the respondent. Furthermore, it is not the case of the petitioner that the Chennai Court is not having the jurisdiction to try and determine the divorce proceeding initiated by the respondent against her.

5.In the light of the above reasons, I do not find sufficient cause for accepting the transfer request putforth by the petitioner.

Accordingly, the Transfer Civil Miscellaneous petition is dismissed. Consequently, connected CMP.No.14652 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

sms

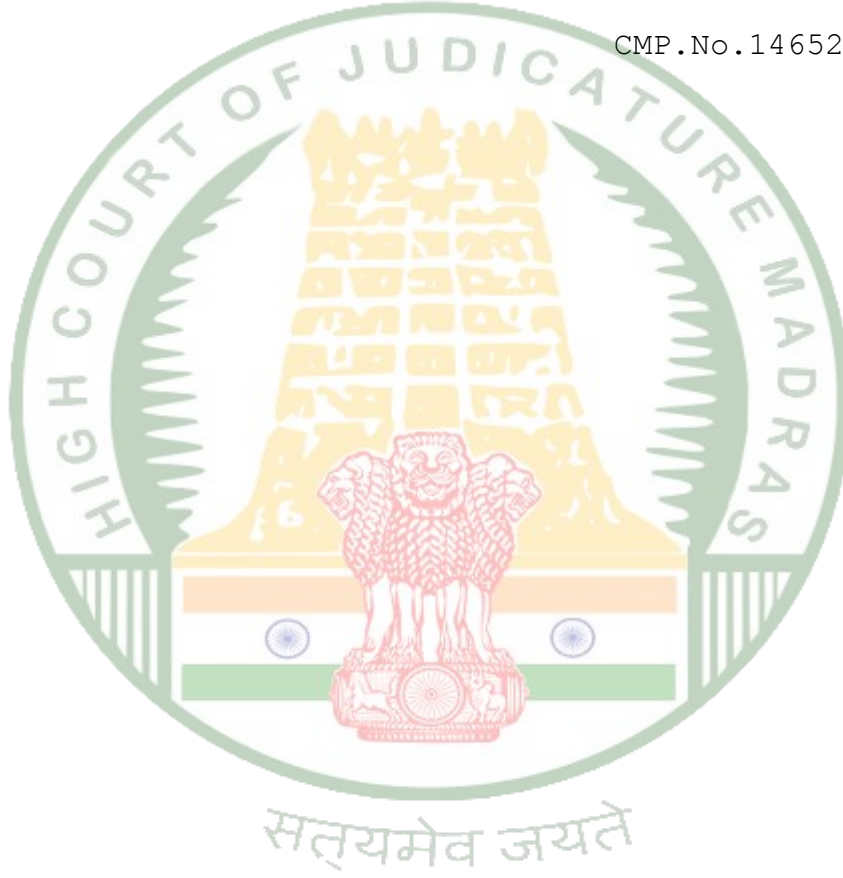
To

The VI Family Court, Chennai.

+1cc to Mr.M.Deivanandam, Advocate SR.NO.58506

sm:10.9.2018

Transfer CMP.No. 607 of 2018
and
CMP.No.14652 of 2018



WEB COPY