

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.08.2018

PRONOUNCED ON : 30.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.609 of 2018
and
CMP.No.14710 of 2018

T.Suganya Petitioner

Vs.

P.Thulasidass ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.91 of 2018 on the file of the Sub Court of Uthamapalayam, Theni District and transfer the same to the file of Family Court at Chennai.

For Petitioner : Ms.G.Indhumathi

ORDER

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

2.The respondent has levied HMOP No.91 of 2018 against the petitioner for restitution of conjugal rights and the same is pending on the file of Sub-Court, Uthamapalayam.

3.The petitioner has come forward with the present petition to transfer the abovesaid proceeding to Chennai Court on the footing that inasmuch as she has to look after her children and her aged parents who would not be able to accompany her to Theni Court for every hearing and the petitioner would also be required to meet the expenses for attending the hearing at Theni Court, accordingly, the transfer CMP has come to be laid by the petitioner.

4.The petitioner is being represented by an advocate, considering the nature of the proceeding, it is found that the petitioner's presence may not be required on all the hearing dates and at the foremost, the petitioner's presence would be required only on the date when her evidence is to be recorded in

support of her case. In respect of other hearings, the petitioner could very well defend the proceeding through her counsel and her able counsel would be able to manage the show as per the instructions received from the petitioner now and then. In such view of the matter, the reasonings of the petitioner that inasmuch as the distance between Chennai to Theni Court is on the higher side and as she would be unable to travel to Theni, the proceeding should be transferred to the Chennai Court cannot be readily accepted. Further, as regards the expenses they may be incurred in attending the hearing dates of the proceeding at Theni Court, if really, the petitioner is in the requirement of any financial assistance to defend the proceeding, it is always open to the petitioner to move the concerned Court for providing litigation expenses, to which, she may be entitled to as per law. In such view of the matter, the expense factor projected by the petitioner for seeking the transfer as such cannot be accepted.

5.It is not the case of the petitioner that the Theni Court is not having jurisdiction to try the OP laid by the respondent. In such view of the matter, when the reasons projected by the petitioner for effecting the transfer as such cannot be accepted and the petitioner is found to be in a position to defend the proceeding by engaging an able counsel and the petitioner has also engaged an able advocate to defend the proceeding, in the light of the above factors, I am unable to accept the transfer request of the petitioner.

Resultantly, the Transfer Miscellaneous Petition is dismissed. Consequently, connected CMP.No.14710 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sms

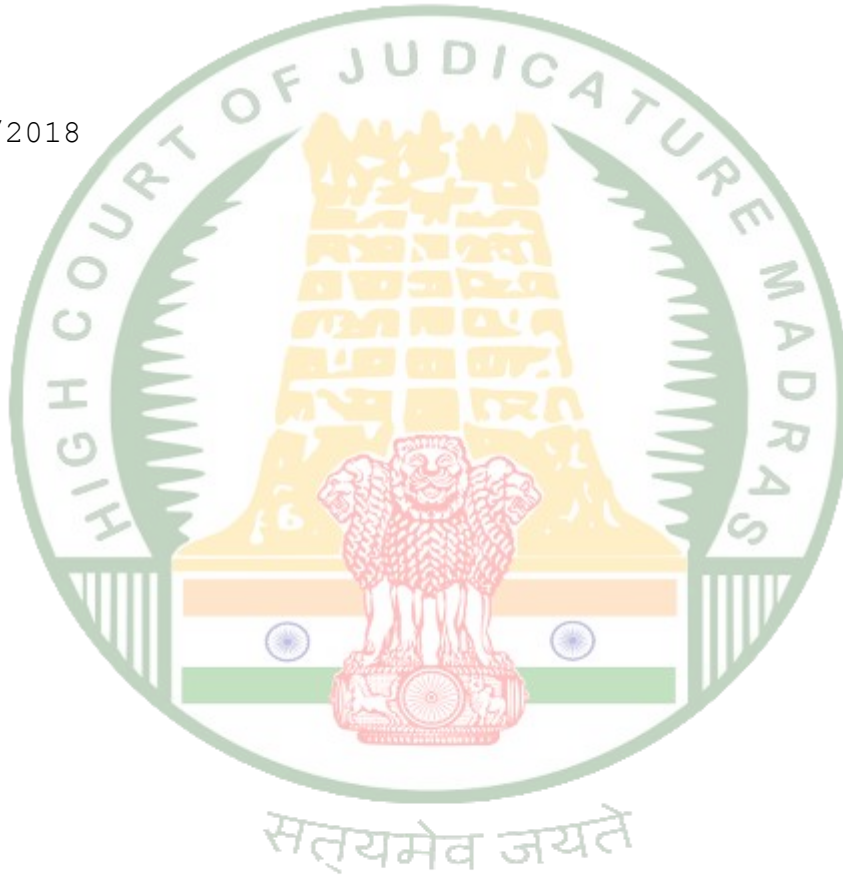
To

1.The Sub Court,
Uthamapalayam,
Theni District.

2.The Family Court
at Chennai.

Transfer CMP.No.609 of 2018
and
CMP.No.14710 of 2018

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srg 18/09/2018



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