

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2018

PRONOUNCED ON : 11.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.611 of 2018

and

CMP.No.14941 of 2018

Deepa Devi ... Petitioner

Vs.

Vinothraj ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.711 of 2017 pending on the file of the Court of Subordinate Judge, Poonamallee and transfer the same to any one of the Family Courts at Chennai.

For Petitioner : Mr.S.Vijay Anand

ORDER

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

2.The respondent has laid a petition in HMOP No.711 of 2017 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Sub-Court, Poonamallee.

3.It is further seen that an application has been laid by the respondent seeking visitation rights of meeting the child born to the parties. The petitioner is contesting the said application by filing a counter.

4.Alleging that mediation had been mooted out with reference to the abovesaid issue, it is the contention of the petitioner that the II Additional District and Sessions Judge, Poonamallee as well as the Sub-Court, Poonamallee are compelling her to handover the child to the custody of the respondent for 3 = days in a week and according to the petitioner, the abovesaid officers, being influenced by the respondents' father, who is a retired police officer, are acting as per the dictates of the respondent and his father and thereby, endeavouring to pass orders against the petitioner qua the custody of the child and therefore, apprehending that she may not get justice from the Court concerned, accordingly, the petitioner has come forward with the present transfer petition.

5.However, as put forth by the petitioner that the respondent or his father had influenced the officers concerned as alleged by the petitioner and thereby, the Court concerned is intending to pass orders against the interest of the petitioner, particularly, as regards the entrustment of the custody of the child to the respondent, it has not been explained or established by the petitioner, as to how

she had perceived that such an order would be going to be passed against her by the Court concerned. With reference to the same, absolutely, there is no valid material projected by the petitioner, other than, her vague allegations putforth in the petition. To substantiate the same, at least, prima facie the petitioner should have placed some reliable and acceptable materials. On the other hand, other than filing the copy of the main HMOP and the counter filed by the petitioner to the same and the copy of the I.A. filed by the respondent and the copy of the counter filed by the petitioner to the same, there is no other material placed by the petitioner to evidence prima facie that the presiding officers named in the petition are acting against her interest and thereby, endeavouring to hand over the custody of the child with the respondent against her interest. Equally, there is no material placed by the petitioner to hold that the abovesaid officers are acting at the behest of the respondent's father, who is a retired police officer. In such view of the matter, merely on the bare allegations without any basis or foundation, the case of the petitioner cannot be accepted as such and it is seen that some allegations had been made by the petitioner against the Court concerned with a view to ensure that they act as per the dictates of the petitioner one way or the other. Accordingly, with a view to prejudice the mind of the Court concerned as well as to instill a fear psychosis on the said Court that the petitioner would lay allegations against them in the High Court, it is seen that the present transfer CMP has come to be laid. However, with reference to the allegations putforth, in the absence of any material to sustain the same, in my considered opinion, if such type of transfer request is entertained, no Court would be able to function smoothly. Every Court would have to dance and act to the tunes of the litigants and the same would not serve the cause of justice.

For the reasons aforestated, I do not find any valid reason to accept the transfer request of the petitioner. Resultantly, the Transfer Civil Miscellaneous petition is dismissed. Consequently, connected CMP.No.14941 of 2018 is also dismissed.

11.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

1. The Subordinate Court, Poonamallee.
2. The Family Court at Chennai.

T.RAVINDRAN, J.

sms

Pre-delivery Order made  
in Transfer CMP.No.611 of 2018  
and  
CMP.No.14941 of 2018

11.09.2018