

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.09.2018

PRONOUNCED ON : 17.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.654 of 2018

and

CMP.No.16181 of 2018

Nithya ... Petitioner

Vs.

R.Balu Mahendran ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.32 of 2018 on the file of the Sub Court, Coonoor, The Nilgiris District and to transfer the same to the Family Court at Coimbatore.

For Petitioner : Mr.J.Stalin

ORDER

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

2.The respondent has laid a divorce petition in HMOP No.32 of 2018 against the petitioner and the same is pending on the file of the Sub Court, Coonoor.

3.Seeking the transfer of the abovesaid proceeding to Coimbatore Family Court on the footing that the petitioner is residing alongwith her child at Coimbatore and experiencing difficulty and inconvenience in attending the Court at Coonoor on account of weather situation as well as the distance factor and also states that she would incur expenses in travelling to Coonoor Court for defending the divorce proceeding. Further, she would also state that there is danger to her life and body at the hands of the respondent in the event of her travelling to Coonoor.

4.Considering the nature of the proceeding pending on the file of the Sub-Court, Coonoor, it is seen that the presence of the petitioner may not be required on all the hearing dates. The petitioner being represented by an able advocate, it is found that her advocate would be able to attend the hearing dates of the proceeding on her behalf as per the instructions received from the petitioner now and then. At the most, the presence of the petitioner would be required only on the hearing date, when her evidence is to be recorded in support of her case. Further more, the distance between Coimbatore and Coonoor is found to be not on the higher side. Thus, it is seen that the distance factor projected by the petitioner for seeking the transfer, as such, cannot be accepted.

5.The petitioner would also plea that she would incur expenses in travelling to Coonoor Court for defending the divorce proceeding. However, it is always open to the petitioner to move the concerned Court for seeking the necessary litigation expenses, which she may incur for defending the proceeding laid by the respondent against her as per law. Therefore, the abovesaid reason projected for seeking the transfer also cannot be accepted.

6.The petitioner would also state that there is danger to her life and body at the hands of the respondent in the event of her travel to Coonoor. However, the petitioner has not placed any material that the the respondent has wielded any threat or caused any danger to her life and body, till date. If the same had been true, the petitioner would have initiated necessary legal action against the respondent. Thus, it is seen that the abovesaid cause has been projected by the petitioner only for the purpose of the transfer.

7.For the reasons aforestated, I do not find sufficient cause for accepting the transfer request of the petitioner. Resultantly, the Transfer Miscellaneous Petition is dismissed. Consequently, connected CMP No.16181 of 2018 is also dismissed.

17.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Sub Court, Coonoor, The Nilgiris District.
- 2.The Family Court at Coimbatore.

T.RAVINDRAN, J.

sms

Pre-delivery Order made

in Transfer CMP.No.654 of 2018
and
CMP.No.16181 of 2018

17.09.2018