

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.09.2018

PRONOUNCED ON : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.658 of 2018

and

CMP.No.16396 of 2018

S.Jaysoorya ... Petitioner

Vs.

R.Sivakumar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.277 of 2018 filed by the respondent herein pending on the file of Sub-Court, Tambaram and to transfer the same to the Family Court, Madras High Court Campus.

For Petitioner : Mr.S.A.Samiullah

ORDER

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

2.It is found that the respondent has levied HMOP No.277/2018 for restitution of conjugal rights against the petitioner and the same is pending on the file of the Sub-Court, Tambaram.

3.Seeking the transfer of the abovesaid proceeding from Tambaram Court to Family Court, Chennai, the present transfer petition has been laid by the petitioner on the footing that the petitioner is experiencing the difficulty and hardship in travelling to Tambaram Court for defending the proceeding.

4.Considering the nature of the proceeding pending at Tambaram Court, it is found that the petitioner's presence may not be required on all the hearing dates. The petitioner being represented by an able advocate, it is found that her able advocate could very well manage the show of the proceedings on her behalf at Tambaram Court during her absence as per the instructions received from the petitioner now and then. At the most, the petitioner's presence would be required only on the hearing date, when her evidence is to be recorded in support of her case. Therefore, the distance factor projected by the petitioner for seeking transfer as such cannot be readily accepted.

5.Furthermore, it is found that the petitioner is residing at Chennai. In such view of the matter, to say that the Tambaram Court is located very far away and it would be difficult to travel Tambaram to

attend the proceeding as such cannot be readily agreed. The only reason given is that according to the petitioner, she has to look after her child but considering the reasons aforesaid, when the petitioner's presence is not required on all the hearing dates, the abovesaid reason by itself would not be sufficient to accept the transfer request prayed for.

6.It is not the case of the petitioner that Tambaram Court is not having the jurisdiction to try and determine the proceeding levied by the respondent against her.

For the reasons aforesaid, I do not find sufficient cause in accepting the transfer request prayed for. Consequently, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected CMP.No.16396 of 2018 is also dismissed

18.09.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Sub-Court, Tambaram.
- 2.The Family Court, Madras High Court Campus.

T.RAVINDRAN, J.

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Pre-delivery Order made
in Transfer CMP.No.658 of 2018
and
CMP.No.16396 of 2018

18.09.2018