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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.09.2018
RONOUNCED ON : 01.10.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

TR CMP.242/2018
and
CMP.6123/2018

S.M.Gnanapriya

...Petitioner

Vs.

Sivabalan

...Respondent

Prayer:

Transfer CMP is filed under Section 24 of Civil Procedure Code, praying to withdraw HMOP. No.49/2017 from the file of Sub Court, Hosur and transfer the same to Sub Court, Thiruthani.

For Petitioner : Mr.T.Ramkumar

For Respondent : Ms.V.Parimala

ORDER

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

2. All is not well qua the marital life of the abovesaid parties.

3. It is found that the respondent has laid a petition for restitution of conjugal rights against the petitioner in HMOP.No.49/2017 and the same is pending on the file of Sub Court, Hosur. The materials placed on record go to show that the petitioner has levied a maintenance claim against the respondent in M.C.No.1 of 2018 and the same is pending on the file of Judicial Magistrate Court, Thiruthani.

4. Seeking transfer of the matrimonial proceeding laid by the respondent against her from the file of Sub court, Hosur to Thiruthani Court, the present transfer petition has come to be laid by the petitioner on the footing that she is presently living with her father and that she has to look after her child who is studying in UKG class and contending the distance between her residence and Hosur court is on the higher side and



accordingly finding it extremely difficult and inconvenient to travel to Hosur Court for defending the proceeding laid against her by the respondent, accordingly, has come forward with the present transfer request.

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5. The respondent would contend that the present transfer petition has been laid by the petitioner only to harass him and accordingly, it is his contention that the continuation of proceeding at Hosur Court, would not, in any manner, cause loss or hardship to the petitioner. Furthermore, it is stated that the respondent is employed at Bangalore and therefore in the event of the court accepting to the transfer request of the petitioner, the proceeding may be transferred to the court at Vellore, so that the same would be convenient to both the parties.

6. As to the abovesaid suggestion of the respondent, the petitioner would contend that considering the difficulties of the petitioner in looking after her child and she has no other help in taking care of her matters other than her aged father and accordingly prayed the court to have the case transferred to Thiruthani Court, as according to her, the maintenance claim is also pending on the file of Judicial Magistrate Court, Thiruthani.

7. As above noted, the petitioner seeking the maintenance from the respondent, has laid the case at Thiruthani Magistrate Court, accordingly, it is noted that the respondent would be required to attend the proceeding at Thiruthani Court. In such view of the matter, if the matrimonial proceeding of the respondent is also transferred to Thiruthani Court, by way of the same, it is seen that the respondent would not be put to serious hardship with reference to the same, particularly, considering the fact that the respondent is employed at Bangalore as put forth during the course of arguments. In such view of the matter, the conduct of the proceeding at Thiruthani court is found to be not causing any prejudice or loss to the respondent as such. On the other hand, the petitioner has expressed certain inconvenience and hardship in attending the proceeding at Hosur court. Considering the distance between the petitioner's residence and Hosur court, admittedly, being on the higher side and further when considering the other difficulties put forth by the petitioner, particularly, in looking after her young daughter and also her case that her daughter is suffering from urinal infection and advised by the doctor to avoid long travel, no doubt, the abovesaid medical condition of the daughter, being repudiated by the respondent. In all, it is found that the petitioner has made out a valid cause for effecting the transfer as prayed for and as above discussed, by way of the same, the respondent is found to be not seriously



prejudiced as he would be required to attend the maintenance claim at Thiruthani court.

8. For the reasons above stated, the transfer request of the petitioner is accepted. Accordingly, HMOP. No.49/2017 is withdrawn from the file of Sub Court, Hosur and transferred to the file of Sub Court, Thiruthani, for disposal, as per law.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

bga

To

1. Sub Court, Hosur
2. Sub Court, Thiruthani

+ 1 cc to M/s. T. Ramkumar, Advocate Sr.68105
+ 1 cc to M/s. Pramila, Advocate Sr.67773

TR CMP.242/2018
and
CMP.6123/2018

CP(CO)
EU(17/10/2018)