

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.09.2018

PRONOUNCED ON : 01.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.25 of 2018

and

CMP.No.699 of 2018

Lavanya ... Petitioner

Vs.

Prabhu ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.214 of 2017 from the file of the Family Court, Salem and transfer the same to Sub-Court, Tambaram to try along with HMOP No.647 of 2017.

For Petitioner : Mr.T.Ramkumar

For Respondent : No appearance

Set exparte vide order

dated 28.09.2018

ORDER

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

2.All is not well qua the marital life of the petitioner and the respondent.

3. It is seen that seeking divorce, the respondent has laid FCOP No.214 of 2017 against the petitioner and the same is pending on the file of the Family Court, Salem. On the other hand, the petitioner has laid HMOP No.647 of 2017 for restitution of conjugal rights against the respondent and the same is pending on the file of the Sub-Court, Tambaram.

4.It is stated by the petitioner that she is now at Korea and it is her father, who is looking after the litigation preferred by her against the respondent as well as the litigation preferred by the respondent against her at Salem Family Court. Further, it is also stated that her father is aged 62 years and suffering from various ailments and unable to travel to Salem to look after the matter pending before the Family Court, Salem. Furthermore, it is also stated that considering the marital issues involved in both the proceedings between the parties, being one and the same and the evidence to be adduced in both the matter would also be one and the same and accordingly, prayed that the two proceedings may be jointly tried by one the same Court and accordingly, prayed for the

transfer of the proceeding from the file of the Family Court, Salem to the file of the Sub-Court Tambaram, for trying jointly along with the petition preferred by her.

5.In this matter, though the respondent had been served, he has not evinced interest to challenge the transfer request of the petitioner and accordingly, on being called and remaining absent and he has been set exparte.

6.Furthermore, the respondent has also not contested the difficulty and hardship expressed by the petitioner's aged father in attending the proceeding at Salem Court on account of his various ailments. Thus, it is seen that the petitioner has made out a sufficient cause for effecting the transfer request as sought for. Furthermore, the two proceedings are pending in different Forums as regards the marital issues involved between the parties. In such view of the matter, in my considered opinion, the consolidation of two proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. That apart, the parties would also be required to adduce common evidence in both the proceedings if the same are jointly tried, accordingly, it is seen that the consolidation of the two proceedings and the joint determination of the same by one and the same Court would advance the cause of justice. On the above ground also, the petitioner has sought for the transfer.

7.In the light of the above factors, the petitioner has made out a sufficient ground for accepting the transfer request made by the petitioner. Resultantly, FCOP No.214 of 2017 is withdrawn from the file of the Family Court, Salem and transferred to the file of the Sub-Court, Tambaram for joint trial along with HMOP.No.647 of 2017 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.699 of 2018 is closed.

01.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Family Court, Salem.
- 2.The Sub-Court, Tambaram.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.25 of 2018
and
CMP.No.699 of 2018

01.10.2018