

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.09.2018

PRONOUNCED ON : 27.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.375 of 2018

and

CMP.No.10076 of 2018

Divya ... Petitioner

Vs.

R.Ganesan ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.118 of 2017 on the file of the Subordinate Court, Perambalur and to transfer the same to the file of Family Court, Chennai to be heard and decided along with the merits of O.P.No.2961 of 2017 on the file of First Additional Family Court, Chennai.

For Petitioner : Mr.S.Namasivayam

For Respondent : No appearance
set exparte vide order
dated 26.09.2018

ORDER

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

2.The marital life between the parties is not cordial.

3.It is found that the petitioner has filed HMOP No.2961 of 2017 for restitution of conjugal rights against the respondent and the same is pending on the file of the First Additional Family Court, Chennai. It is also noted that the respondent has filed HMOP No.118 of 2017 against the petitioner for dissolution of marriage and the same is pending on the file of the Sub-Court, Perambalur.

4.Seeking transfer of the divorce proceeding laid by the respondent to Chennai Court, the petitioner has levied the transfer petition on the footing that she is dependent upon her mother and brother and unable to attend the proceeding at Perambalur Court and furthermore, the distance between Chennai and Perambalur is on the higher side and as the two proceedings are pending between the parties with reference to the marital issues, the determination of the two proceedings by one and the same Court would advance the cause of justice and accordingly, prayed for the transfer of the proceeding from Perambalur Court to Chennai Court.

5.In this matter, though the respondent had been served, he has not evinced interest to contest the transfer request of the petitioner. Accordingly, he having been called and remained absent and he

has been set exparte.

6.The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Permbalur Court, the same has not been challenged by the respondent. Furthermore, the two proceedings are pending as regards the marital issues between the parties in different forums. In such view of the matter, as rightly putforth, 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. Furthermore, the parties also would be required to adduce common evidence if need be in both the proceedings, accordingly, it is seen that the cause of justice would be advanced in the determination of the proceedings by one and the same Court as abovestated. The petitioner has projected a cause for seeking transfer of the proceeding from Perambalure Court to Chennai Court and the same has not been challenged. Thus, it is found that the petitioner has made out a sound reason for accepting the transfer request.

7.For the reasons aforestated, HMOP.No.118 of 2017 is withdrawn from the file of the Sub-Court, Perambalur and transferred to the file of the First Additional Family Court, Chennai for joint trial along with O.P.No.2961 of 2017.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.10076 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms

27.09.2018

To

1.The Subordinate Court, Perambalur.

2.The First Additional Family Court, Chennai.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.375 of 2018
and
CMP.No.10076 of 2018

27.09.2018