

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. 481 of 2018

and

CMP.No.11969 of 2018

S.Kasthuri ... Petitioner

Vs.

E.Balachandar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the HMOP No.723 of 2016 pending on the file of Sub Court in Tambaram to the any other family Court in Chennai.

For Petitioner : Mr.P.Raghu

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.Seeking restitution of conjugal rights, it is found that the respondent has filed HMOP No.723 of 2016 against the petitioner and the same is pending on the file of the Sub-Court, Tambaram.

4.Seeking transfer of the abovesaid proceeding to Chennai Court, the present transfer petition has come to be laid by the petitioner.

5.In this matter, though the respondent has been served, he has not entered appearance and challenged the transfer request of the petitioner and accordingly, he having been called and remained absent, been set exparte.

6.The reason given by the petitioner for seeking the transfer is that during the course of hearing of the abovesaid OP, the respondent has threatened her with dire consequences at the Court Hall itself and as the petitioner's father died long back and the petitioner is living with her aged mother, accordingly, apprehending danger to her life and body in the event of travelling to Tambaram Court for attending the proceeding, resultantly, the transfer request has been made by the petitioner.

7.It is found that both the parties are residing at Chennai. Accordingly, it is seen that the proceeding if tried at Chennai Court, would not be causing any prejudice to the respondent as such. Be that as it may, the petitioner has projected a cause apprehending danger to her and body at the hands of the

respondent during her visit to Tambaram Court for attending the abovesaid proceeding and accordingly, prayed for the transfer. As abovenoted, the respondent has not chosen to contest the transfer request of the petitioner and thereby, it is seen that inasmuch as the apprehension in the mind of the petitioner is justifiable and cannot be easily discarded, accordingly, even the respondent has not chosen to repudiate the abovesaid cause. Thus, it is seen that the petitioner has made out a good reason for effecting the transfer prayed for. Furthermore, as abovenoted, inasmuch as the parties are residing at Chennai, by way of the proceeding being conducted at Chennai Court, no serious prejudice would be caused to either of the parties, particularly, the respondent.

8.For the reason aforestated, HMOP.No.723 of 2016 is withdrawn from the file of the Sub-Court, Tambaram and transferred to the file of the Family Court, Chennai for disposal according to law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.11969 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms

27.09.2018

To

1.The Sub-Court, Tambaram.

2.The Family Court, Chennai

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 481 of 2018
and
CMP.No.11969 of 2018

27.09.2018