

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.09.2018

PRONOUNCED ON : 24.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 486 of 2018

and

CMP.No.12043 of 2018

Mullai

...Petitioner

Vs.

Rajaganesh

...Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the case pending in FCOP No.289 of 2018 before the Hon'ble Family Judge at Salem and transfer the same to the file of the Hon'ble Principal Family Court, Chennai.

For Petitioner : Mr.K.Sumathi

For Respondent : Mr.R.Nalliyappan

ORDER

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

2.The respondent has levied divorce proceeding against the petitioner in FCOP No.289 of 2018 and the same is pending on the file of the Principal Family Court, Salem.

3.Seeking the transfer of the abovesaid proceeding to Chennai Court, the present petition has been laid by the petitioner on the footing that she is not financially sound and had to look after her child, who is three years old and considering the distance between Chennai and Salem, being on the higher side and as the petitioner has no relative or friends at Salem, accordingly, prayed for the transfer of the proceeding from Salem Court to Chennai Court.

4.The respondent contended that the transfer petition has been levied by the petitioner only with a view to cause hardship to the respondent intoto and according to the respondent, he is working in a company and therefore, if the proceeding is transferred to Chennai, which is admittedly as

projected by the petitioner being far away from Salem, accordingly, stated that only to put him to inconvenience, the petitioner has levied the transfer request. Further, according to him, the presence of the petitioner may not be required on all the hearing dates at Salem Court and therefore, there is no need for effecting the transfer as prayed for and therefore, contended that the petition should be dismissed.

5. During the course of arguments, the respondent's counsel putting forth inconvenience and hardship on behalf of the respondent suggested that in the event of the Court inclining to accept the transfer request of the petitioner, suggested that a midway Court may be chosen by the Court and accordingly, requested to transfer to that Court for disposal and he suggested that Villupuram Family Court may be ideal as the same is situated midway to both the petitioner as well as the respondent. The petitioner's counsel did not contest the fact that Villupuram Family Court is located midway between the residence of both the parties concerned. However, she would contend that considering the difficulty and hardship projected by the petitioner in attending the proceeding at Villupuram Court, in the event of transfer of the case there, accordingly prayed for the transfer of the proceeding to Chennai Court for the convenience of the petitioner.

6. No doubt, the petitioner has put forth certain inconvenience and hardship in attending the proceeding at Salem Court. Equally, the respondent has also put forth certain inconvenience and hardship in attending the proceeding at Chennai Court, in the event of the proceeding being transferred to Chennai Court. Accordingly, it is seen that the interest of both the parties should be taken into consideration in considering the issue involved in this matter. As above seen, Villupuram Court is accepted to be a midway Court between the residence of the both the parties. In such view of the matter, considering the distance between Chennai and Villupuram Court, not on the higher side, particularly, the petitioner is a resident of Selaiyur, Chennai, it is seen that the conduct of the proceeding at Villupuram would not in any manner seriously prejudice the petitioner's case. Furthermore, the main ground projected by the petitioner is her financial constraints in defending the proceeding laid by the respondent. If the petitioner is in need of financial assistance for defending the proceeding laid by the petitioner, it is always open to the petitioner to move the concerned Court for seeking the necessary litigation expenses that she may incur in defending the proceeding as provided under law. Further more, as rightly put forth by the respondent, the presence of the petitioner may not be required on all the hearing dates of the proceeding. The petitioner could very well make other arrangements to attend the proceeding during her absence, in case, she is unable to attend the proceeding one way or the other on a particular

hearing date. Thus, it is seen that the conduct of the proceedings at Villupuram Court would be beneficial to both the parties and the same would only advance the cause of justice to both the parties.

7.For the reasons aforestated, HMOP No.289 of 2018 is withdrawn from the file of the Family Court, Salem and transferred to the file of the Family Court, Villupuram for disposal accoridng to law.

Accordingly, the Transfer Civil Miscellaneous Petition is disposed of. Consequently, connected CMP.No.12043 of 2018 is closed.

sms

Sd/-
Assistant Registrar(CS-CCC)

// True Copy//

Sub Assistant Registrar

To

1.The Judge, Family Court, Salem.

2.The Family Court, Villupuram.

+ 1 CC TO MR.R.NALLIYAPPAN, ADVOCATE SR 65738

+ 1 CC TO M/s.K.SUMATHI, ADVOCATE SR 66084

KR/9/10/18

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and

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