

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.09.2018

PRONOUNCED ON : 03.10.2018
CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.572 of 2018
and
CMP.No.13907 of 2018

S.Rajeswari Petitioner

..... Vs.
B.Sriram Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdrawal of the petition in HMOP No.2411 of 2018 from the file of Hon'ble Family Court, Chennai and transfer the same to the Hon'ble Sub Court, Tambaram, with a direction to try the same along with HMOP No.467 of 2018.

For Petitioner : Mr.S.Radhakrishnan

For Respondent : Mr.B.Srikrishnan

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 the petitioner has levied divorce case against the respondent in HMOP No.467 of 2018 and the same is pending on the file of the Sub-Court, Tambaram. The respondent has levied HMOP No.2411 of 2018 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Family Court, Chennai.

4.Though the petitioner would claim that her case had been levied on 04.06.2018, according to the respondent, only after the institution of the proceeding by the respondent, the petitioner has levied the divorce case against him.

5.Putting forth certain inconvenience and hardship in attending the proceeding at Chennai Court, the petitioner has come forward with the transfer petition on the footing that the respondent would be no prejudiced in any manner, if both the proceedings are conducted at Sub-Court, Tambaram and also contended that as the two proceedings are pending with

reference to the marital issues of the parties, the joint trial of the two proceedings at Sub Court, Tambaram would be beneficial to both the parties.

6.It is found that the petitioner is a resident of Ayanavaram, Chennai, similarly it is found that the respondent is a resident of Madambakkam. Considering the position that the two proceedings are in two different forums relating to the marital issues of the parties, in my considered opinion, the consolidation of the two proceedings by one and the same Court would be beneficial to both the parties and the same would avoid conflict of decisions. Furthermore, the parties would also be required to adduce common evidence in both the proceedings, if the two proceedings are jointly tried by one and the same Court. Thus, it is seen that cause of justice would be advanced, if the two proceedings are jointly tried and determined by one and the same Court.

7.The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Chennai Court and no doubt, the same being contested by the respondent. Inasmuch as both the petitioner as well as the respondent are found to be the resident of Chennai and Madambakkam respectively, it is seen that the conduct of the two proceedings at Tambaram Court as such would not cause serious prejudice to the respondent. During the course arguments, the respondent's counsel would only contend that the counselling facility may not be available at Tambaram Court but it is seen that if the parties endeavour to reunite, it is always open to them to move the concerned Court for necessary conciliation and counselling with reference to the same as available under law. Hence, the contention of the respondent's counsel that counselling procedure would not be available at Tambaram Court as such cannot be readily accepted.

8.As abovenoted, considering the hardship of the petitioner in attending the proceeding at Chennai Court, she being a lady and considering that no serious prejudice would be caused to the respondent, if the proceedings are conducted at Tambaram Court and also considering the position that the joint trial of the two proceedings would be beneficial to both the parties and advance the cause of justice, in all, HMOP No.2411 of 2018 is withdrawn from the file of the Family Court, Chennai and transferred to the file of the Sub-Court, Tambaram for joint trial along with HMOP No.467 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.13907 of 2018 is closed.

sms

//True Copy//

Sd/-

Assistant Registrar(CS V)

Sub Assistant Registrar

To

1.The Judge, Family Court, Chennai.

2.The Judge, Sub-Court, Tambaram.

+2cc to Mr.B.Srikrishnan , Advocate SR.No. 67978

Transfer CMP.No.572 of 2018
and
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ASK(30/10/2018)



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