

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.10.2018

PRONOUNCED ON : 10 .10 .2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

TR CMP.590/2018
and
CMP.14259/2018

B.Deepa

...Petitioner/Respondent

Vs.

M.Gnanaprakasam

...Respondent/Petitioner

Prayer:

Transfer CMP is filed under Section 24 of Civil Procedure Code, praying to withdraw HMOP. No.12/2018 from the file of Sub Court, Arakkonam and to transfer the same to II additional family court, Chennai to be tried along with M.C.No.301 of 2018.

For Petitioner : Mr.K.Shivakumar

For Respondent : Mr.T.Ravikumar

ORDER

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

2. All is not well qua the marital life of the abovesaid parties.

3. It is seen that that the respondent has laid divorce case against the petitioner in HMOP. No.12/2018 and the same is pending on the file of the Sub Court, Arakkonam. The petitioner has preferred maintenance case against the respondent in M.C.No.301 of 2018 and the same is pending on the file of II Additional Family Court, Chennai for herself and her minor daughter.

4. Seeking transfer of the proceeding at Arakkonam court laid by the respondent to the family court, Chennai, for joint trial along with the maintenance case preferred by her, the petitioner has come forward with the transfer petition on the footing that she is a resident of Chennai and finding it difficult and inconvenient to attend the proceeding at Arakkonam Court considering the distance between her residence and Arakkonam

Court and also apprehends danger to her life and body at the hands of the respondent and his family members at Arakkonam and furthermore contending that no prejudice would be caused to the respondent if the proceeding is transferred to Chennai court, accordingly has come forward with the present request.

5. The respondent's counsel contended that the petition seeking transfer laid by the petitioner is only to harass and cause trouble to the respondent one way or the other and according to the respondent's counsel, continuation of the proceeding at Arakkonam court would not cause any loss or hardship to the petitioner as she may not be required to attend all the hearing dates at Arakkonam court and accordingly prayed for the dismissal of the transfer petition.

6. Admittedly, the maintenance case laid by the petitioner against the respondent is pending on the file of the II Additional Family Court, Chennai. Thus, it is found that the respondent would be required to defend the abovesaid proceeding at Chennai court. Seeking divorce, the respondent has levied the matrimonial proceeding at Arakkonam Court. As rightly put forth, common issues would arise for consideration in both the proceedings and in such view of the matter, in my considered opinion, as also put forth by the petitioner's counsel, consolidation of the abovesaid two proceedings and determination of the same by one and the same court would be beneficial to both the parties and also by way of the same, conflict of decisions could be avoided. Furthermore, if need be, the parties would also be required to adduce common evidence in both the matters. Thus it is seen that the request of transfer put forth by the petitioner would advance the cause of justice.

7. Considering the position that the respondent would be required to attend the maintenance case levied by the petitioner at Chennai Court, accordingly, by way of transferring his divorce case to Chennai court, he would not be put to serious loss or hardship as such. The petitioner has put forth certain inconvenience in attending the proceeding at Arakkonam Court. Though the same had been repudiated by the respondent, however, considering the factual matrix of the matter in all aspects, it is found that the reason projected by the petitioner for seeking the transfer as such, cannot be easily discarded.

8. For the reasons aforesaid, it is seen that the petitioner has put forth sufficient cause for acceding to the transfer request made by her. Resultantly, HMOP. No.12/2018 is withdrawn from the file of Sub Court, Arakkonam and transferred to the file II additional family court, Chennai, for joint trial along with M.C.No.301 of 2018 as per law.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

bga

To

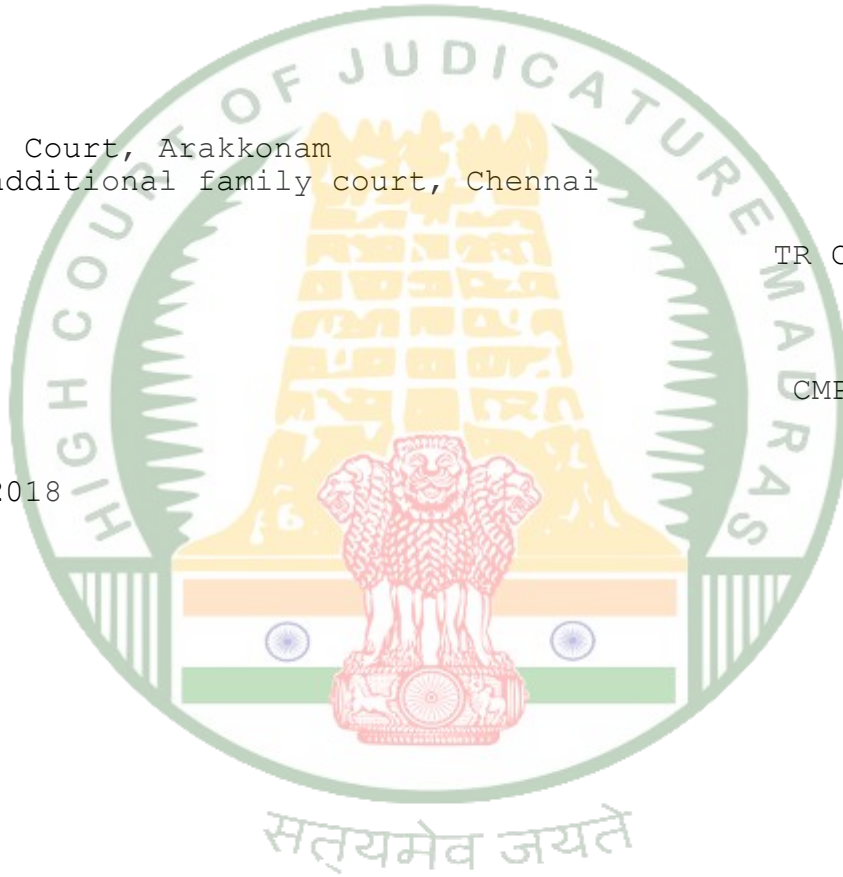
1. Sub Court, Arakkonam
2. II additional family court, Chennai

TR CMP.590/2018

and

CMP.14259/2018

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