

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.09.2018

PRONOUNCED ON : 28.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.591 of 2018

and

CMP.No.14261 of 2018

P.Bhanudevi ... Petitioner

Vs.

M.Dhamodaran ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.292 of 2017 on the file of the Sub-Court, Karur, Karur District and transfer the same to the Sub-Court, Dharapuram, Tirupur District to be tried along with HMOP No.55 of 2018 where HMOP No.55 of 2018 is pending.

For Petitioner : Mr.A.K.Sridharan

For Respondent : Mr.M.Murugesan

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.The respondent has filed HMOP No.292 of 2017 seeking divorce against the petitioner and the same is pending on the file of the Sub-Court, Karur. The petitioner has filed HMOP No.55 of 2018 against the respondent for restitution of conjugal rights and the same is pending on the file of the Sub-Court, Dharapuram.

4.Seeking transfer of the proceeding of the respondent from Karur Court to Dharapuram Court, the petitioner has levied the transfer petition contending that the distance between her residence and Karur Court is on the higher side and she is unable to attend the proceeding alone as she has no male help and further, contended that 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 be beneficial to both the parties and prayed for the transfer.

5.The respondent has disputed the reasons projected by the petitioner for transferring the matter from Karur Court to Dharapuram Court contending that if the proceeding of the petitioner is transferred to Dharapuram Court, he would find it difficult and inconvenient to attend the proceeding and therefore, as the distance between Dharapuram and Karur is on the higher side and

on the other hand, the distance between the petitioner's residence and Karur Court is on the lesser side and according to the respondent, only with a view to harass him, the present transfer petition has been laid and further, it is stated that the respondent is working as Professor and the petitioner is also working as Teacher and in such view of the matter, according to him, both the parties would not be prejudiced, if both the proceedings are conducted at Karur Court and accordingly, prayed for dismissal of the transfer petition and instead sought for the transfer of the wife proceeding to Karur Court for disposal. The two proceedings are pending in two different forums as regards the marital issues of the parties. In such view of the matter, in my considered opinion, in the interest of justice, both the proceedings should be tried and determined by one and the same Court and by way of the same, the parties would be required to adduce common evidence and also the same would avoid conflict of decisions. Thus, it is seen that the two proceedings should be ordered to be jointly tried by one and the same Court.

6.The petitioner has putforth certain inconvenience and hardship in attending the proceeding at Karur Court. No doubt, the respondent has disputed the same. Now, according to the petitioner, the distance between Dharapuram and Karur is on the higher side and therefore, she is finding it difficult and inconvenient and experiencing hardship in attending the proceeding at Karur Court, where as, the respondent would contend that the distance between Karur and Dharapuram is on the higher side and therefore, he would find it difficult and inconvenient, if the proceeding is transferred to Dharapuram Court.

7.When admittedly, the respondent would be required to attend the proceeding laid by the petitioner at Dharapuram Court, it is seen that if the proceeding laid by the respondent is also transferred to Dharapuram Court, by way of the same, no serious prejudice would be caused to the respondent as such. Furthermore, as abovenoted, the joint trial of the two proceedings and the determination of the issues involved between the parties by one and the same Court would be beneficial to both the parties. Accordingly, taking into consideration the abovesaid factors and also the inconvenience that may be caused to the petitioner thereby, she being a lady, in all, it is seen that the interest of justice would be served, if the proceedings are conducted at Dharapuram Court.

8.For the reasons aforestated, HMOP.No.292 of 2017 is withdrawn from the file of the Sub-Court, Karur and transferred to the file of the Sub-Court, Dharapuram for joint trial along with HMOP No.55 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.14261 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms

28.09.2018

To

1.The Sub-Court, Karur.

2.The Sub-Court, Dharapuram.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.591 of 2018
and
CMP.No.14261 of 2018

28.09.2018