

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.593 of 2018

and

CMP.No.14318 of 2018

N.Premalatha ... Petitioner

Vs.

Vijayan @ Karuppasamy ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the FCOP No.144 of 2017 on the file of the Learned District Judge, Family Court, Erode to transfer the same to the Learned Sub Judge, Gobichettipalayam to be tried along with HMOP No.27 of 2015.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.V.S.Kesavan

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 found that HMOP No.27 of 2015 has been filed by the petitioner against the respondent seeking restitution of conjugal rights and the same is pending on the file of the Sub-Court, Gobichettipalayam. Thereafter, it is seen that the respondent has preferred FCOP No.144 of 2017 against the petitioner for divorce and the same is pending on the file of the Family Court, Erode.

4.Putting forth the case that the petitioner is the resident of Gobichettipalayam and unable to attend the proceeding at Erode Court, as she has no one to assist her except her mother and as the proceedings are pending 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, accordingly, the petitioner has come forward with the present petition seeking transfer of the proceeding laid by the respondent from Erode Court to the file of the Sub-Court, Gobichettipalayam for joint trial with the proceeding laid by her.

5.The respondent has contested the transfer request of the petitioner contending that if the proceeding is transferred to Gobichettipalayam, the respondent would be put to great loss and hardship and on the other hand, if the proceeding is continued at Erode Court and furthermore, if the proceeding laid by the petitioner is also transferred to the Erode Court, no loss or inconvenience

would occur to the petitioner and accordingly, prayed for the dismissal of the transfer petition.

6.As regards the marital issues between the parties, it is seen that two proceedings are pending in two different forums. In such view of the matter, as rightly put forth, the consolidation of the two proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and the same would also avoid conflict of decisions. Furthermore, the parties would be required to adduce common evidence in both the proceedings, if need be. Thus, it is seen that the determination of the two proceedings by one and the same Court would advance the cause of justice.

7.The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Erode Court. No doubt, the respondent has repudiated the same but considering the distance between the petitioner's residence and Erode Court being on the higher side and furthermore, when it is found that the respondent as such would not be prejudiced, if the proceedings are conducted at Gobichettipalayam Court, it is found that the transfer request of the petitioner is justifiable.

8.Accordingly, HMOP No.144 of 2017 is withdrawn from the file of the Family Court, Erode and transferred to the file of the Sub-Court, Gobichettipalayam for joint trial along with HMOP No.27 of 2015.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.14318 of 2018 is closed.

Index : Yes / No

Internet : Yes / No

sms

27.09.2018

To

1.The Family Court, Erode.

2.The Sub-Court, Gobichettipalayam

T.RAVINDRAN, J.

sms

Pre-delivery Order made  
in Transfer CMP.No.593 of 2018  
and  
CMP.No.14318 of 2018

27.09.2018