

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12.10.2018

PRONOUNCED ON:22.10.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.602 of 2018

and

C.M.P.No.14473 of 2018

K.Vinothini

...Petitioner

Vs.

S.Prasath

...Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer the H.M.O.P.No.629 of 2018 on the file of the Principal Family Court at Coimbatore and transfer the case to the file of the Family Court, Madurai.

For Petitioner : Mr.R.Sathiyamoorthy

For Respondent : No Appearance
Set Exparte
Vide Order Dated 12.10.2018

O R D E R

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

2. All is not well qua the marital life of the abovesaid parties. The respondent has levied H.M.O.P.No.629 of 2018 for divorce and the same is pending on the file of the Principal Family Court at Coimbatore. The petitioner has laid H.M.O.P.No.452 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the Family Court, Madurai. It is further seen that the petitioner has preferred maintenance case against the respondent in M.C.No.69 of 2018 and the same is pending on the file of the Family Court, Madurai.

3. Seeking transfer of the matrimonial proceeding of the respondent from Coimbatore Court to Madurai court, the transfer petition has been laid by the petitioner, on the footing that

she is depending upon her parents and unable to attend the Coimbatore court from Madurai, considering the long distance between Madurai and Coimbatore and apprehends danger of her life, in the event of moving to Coimbatore court and further she has also stated that due to two abortions, her health does not permit her to travel long distance and therefore prayed for the transfer. Furthermore, it is contended by the petitioner's counsel that inasmuch as, three proceedings are pending as regards the marital issues between the parties, the consolidation of the proceedings together and the determination of the same by one and the same would be beneficial to both the parties and also avoid conflict of decisions.

4. Insofar as this matter is concerned, though the respondent had been served, he has not evinced interest to contest the transfer request of the petitioner and accordingly, he having been called and remaining absent, been set exparte.

5. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Coimbatore court. The distance between Madurai and Coimbatore is found to be on the higher side. Considering the distance factor as well as the health condition of the petitioner in not able to travel long distance and also the petitioner being dependent upon her parents, accordingly, it is found that the petitioner has moved for the transfer. Inasmuch as the petitioner has projected the sufficient cause for effecting the transfer, it is evident that the respondent has not chosen to contest the transfer request of the petitioner and remained exparte.

6. Furthermore, three proceedings are pending between the parties with regard to the marital issues between them, in such view of the matter, as rightly put forth and also in my considered opinion, the consolidation of the proceedings together and the determination of the same by one and the same would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Furthermore, by clubbing all the cases and joint trial by one and the same court, the parties also would be required to adduce common evidence in the proceedings. Thus, it is found that the cause of justice would be advanced, if the transfer request made by the petitioner is accepted. Moreover, the respondent would be required to defend the proceedings laid by the petitioner against him at Madurai Court.

7. In the light of the abovesaid reasons, it is found that the petitioner has made out sufficient cause for acceding to the transfer request put forth by her.

8. In conclusion, H.M.O.P.No.629 of 2018 is withdrawn from the Principal Family Court, Coimbatore and transferred to

the Family Court, Madurai for joint trial along with H.M.O.P.No.452 of 2018 and M.C.No.69 of 2018 as per law. Accordingly, the Transfer Miscellaneous petition is allowed. Consequently, connected miscellaneous petition, if any, is closed.

mfa

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

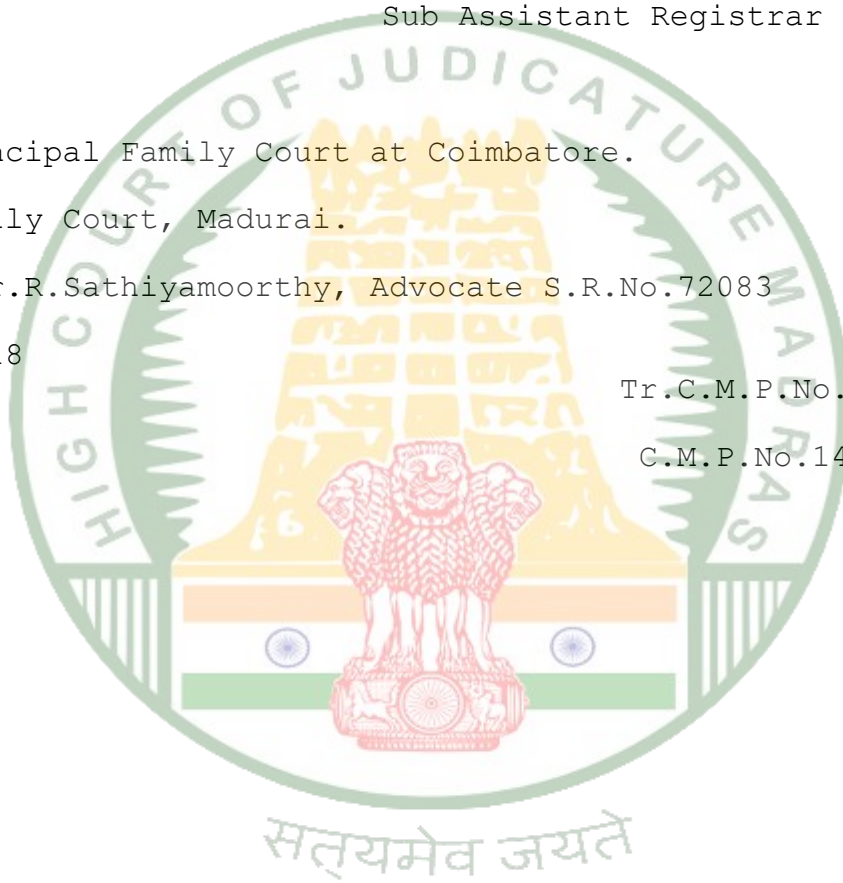
1.The Principal Family Court at Coimbatore.

2.The Family Court, Madurai.

+lcc to Mr.R.Sathiyamoorthy, Advocate S.R.No.72083

KR/13/11/18

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