

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.606 of 2018

and

CMP.No.14639 of 2018

Manjula

...

Petitioner

Vs.

Mahakrishnan

...

Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.49 of 2017 on the file of the Sub Court, Thuraiyur and transfer the same to the file of the Sub-Court, Attur to be heard along with HMOP No.78 of 2016 pending on its file.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : No appearance

Set exparte vide order
dated 28.09.2018

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 petitioner has laid HMOP No.78 of 2016 against the respondent for restitution of conjugal rights and the same is pending on the file of the Sub-Court, Attur. According to the petitioner, thereafter, the respondent has laid divorce case against the petitioner in HMOP.No.49 of 2017 and the same is pending on the file of the Sub-Court, Thuraiyur.

4.Seeking the transfer of the abovesaid proceeding from Thuraiyur Court to Attur Court, the transfer petition has been laid by the petitioner on the footing that she is a resident of Gangavalli Taluk, Salem District and experiencing difficulty and hardship in attending the proceeding at Thuraiyur Court and stated that she is dependent upon her aged parents and they are unable to assist her to defend the proceeding at Thuraiyur Court and furthermore, also pleaded that inasmuch as the two proceedings are pending as regards the marital issues of the parties in two differet Courts, 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 also avoid conflict of decisions and accordingly, prayed for the transfer.

5. In this matter, though the respondent had been served, he has not evinced interest to challenge the transfer request of the petitioner and accordingly, on being called and remaining absent and he has been set exparte.

6. The two proceedings are pending between the parties as regards their marital issues in two different forums. Accordingly, it is seen that as rightly put forth, the consolidation of the two proceedings together and the determination of the same by one and the same Court would be beneficial to both the parties and also avoid conflict of decisions. Furthermore, by way of the same, the parties would be required to adduce common evidence in both the proceedings. Thus, it is found 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 Thuraiyur Court and the same has not been contested by the respondent. Furthermore, it is also stated that the respondent is employed in Thirupur and thereby, he would not be prejudiced in any manner if both the proceedings are conducted and tried at Attur Court. The abovesaid reasons projected by the petitioner for seeking the transfer are found to just and acceptable.

8. For the reasons aforesaid, HMOP No.49 of 2017 is withdrawn from the file of the Sub Court, Thuraiyur and transferred to the file of the Sub-Court, Attur for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.14639 of 2018 is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sms

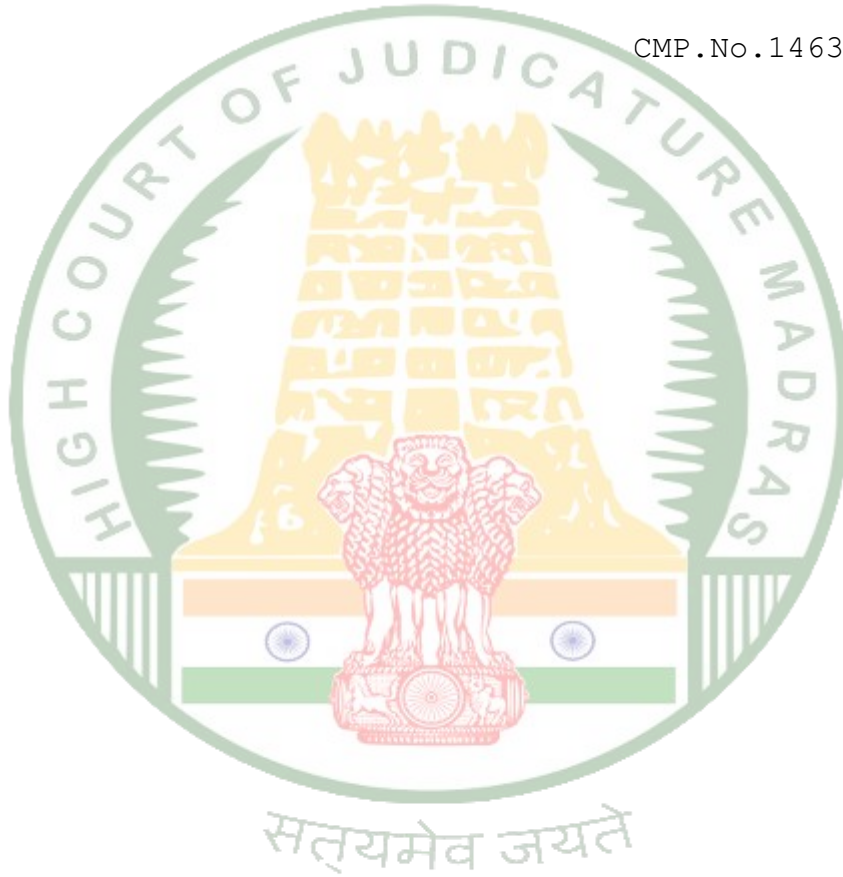
To

- 1.The Sub Court, Thuraiyur.
- 2.The Sub-Court, Attur.

+lcc to Mr.S.Kaithamalai Kumaran, Advocate SR.NO.67991

sm:31.10.2018

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