

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.10.2018

PRONOUNCED ON : 11.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 616 of 2018

and

CMP.No.15037 of 2018

Kalaiselvi ... Petitioner

Vs.

Utayakumar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer in HMOP No.963 of 2018 on the file of the Principal District Family Court, Coimbatore to the Sub-Court, Mettupalayam, Coimbatore District to be tried along with HMOP No.66 of 2018 to try the same for effectual adjudication.

For Petitioner : Mr.P.Kalimuthu

For Respondent : Mr.S.Gowsik Sundar

ORDER

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

2.The respondent has levied HMOP No.963 of 2018 for restitution of conjugal rights against the petitioner and the same is pending on the file of the Principal District Family Court, Coimbatore. The petitioner has levied divorce case against the respondent in HMOP No.66 of 2018 and the same is pending on the file of the Sub-Court, Mettupalayam.

3.Seeking transfer of the matrimonial proceeding of the respondent to Sub-Court, Mettupalayam, Coimbatore, the transfer petition has come to be laid by the petitioner on the footing that she is depending upon her aged parents, who are unable to accompany her to attend the proceeding at Coimbatore Court on account of their ill health and also the petitioner is finding it difficult and inconvenient in attending the proceeding at Coimbatore Court, considering the distance between her residence and Coimbatore Court and also that she would incur heavy expenses with reference to the same and accordingly, contended that considering the two proceedings as regards the matrimonial issues between the parties pending in different forums, sought for the consolidation of the two proceedings and prayed for the conduct of the two proceedings at Mettupalayam Sub-Court.

4.The respondent has contended that the transfer petition has been filed only to harass him and cause hardship and therefore, prayed for the dismissal of the transfer petition. Further, according to him, considering the fact that the petitioner is working at Coimbatore, contended that the

continuation of the proceeding at Coimbatore would not cause any loss to the petitioner.

5.However, the abovesaid contention is repudiated by the petitioner's counsel contending that she was employed at Coimbatore only at the time of the marriage and not at present. According to the petitioner's counsel, the petitioner is not working presently at Coimbatore. To evidence that the petitioner is presently working at Coimbatore, there is no material forthcoming.

6.Be that as it may, two proceedings as regards the marital issues of the parties are pending in different forums, accordingly, as rightly argued, the consolidation of two proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Furthermore, the parties also would be required to adduce common evidence. Therefore, the cause of justice would be advanced, if both the proceedings are clubbed together and determined by one and the same court.

7.The petitioner has putforth certain inconvenience and hardship in attending the proceeding at Coimbatore Court and the same could not be easily discarded. Furthermore, the respondent is having the residence at Coimbatore Taluk and considering the distance between his residence and Mettupalayam, it is seen that by way of the proceeding being conducted at Mettupalayam, the respondent would not be seriously prejudiced and put to any hardship. Furthermore, the respondent also would be required to defend the proceeding laid by the petitioner pending on the file of the Mettupalayam Court. In all, it is seen that the petitioner has made out a sufficient cause for effecting the transfer as prayed for.

8.Resultantly, HMOP No.963 of 2018 is withdrawn from the file of the Principal District Family Court, Coimbatore and transferred to the file of the Sub-Court, Mettupalayam Coimbatore District for joint trial along with HMOP No.66 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP No.15037 of 2018 is closed.

11.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Principal District Family Court, Coimbatore.
- 2.The Sub-Court, Mettupalayam, Coimbatore District

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No. 616 of 2018
and
CMP.No.15037 of 2018

11.10.2018