

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.10.2018

PRONOUNCED ON : 23.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.624 of 2018
and
CMP.No.15251 of 2018

Wencelaus Steffi ...Petitioner

Vs.

Wilbert Joseph Yesuraj ...Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the case in I.D.O.P.No.96 of 2017 pending on the file of the VI Additional Principal Family Judge, at Chennai preferred by the Respondent to be tried along with the O.S.No.41 of 2018 pending on the file of the Principal Family Judge, Family Court at Puducherry filed by the petitioner.

For Petitioner : Mr.V.P.Raju

For Respondent : Mrs.C.Shyamala

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 seen that the respondent has levied a divorce case against the petitioner in IDOP No.96 of 2017 and the same is pending on the file of the VI Additional Family Court, Chennai. The petitioner has levied O.S.No.41 of 2018 against the respondent for restitution of conjugal rights and the same is pending on the file of the Family Court, Puducherry.

4.Seeking transfer of the matrimonial proceeding of the respondent to Puducherry Court, the present transfer petition has been laid by the petitioner on the footing that she is

unable to attend the proceeding at Chennai Court, considering the distance between her residence at Puducherry and Chennai and also staying with her parents' house at Puducherry and would incur heavy expenses in attending the proceeding at Chennai Court and therefore, prayed for the transfer.

5.The respondent has resisted the transfer request of the petitioner contended that the address given by the petitioner at Puducherry is a false address and it is contended that notice sent by the respondent to the said address, in which the petitioner is stated to be residing, has been returned as no such address and therefore, it is contended that for the purpose of laying the case at Puducherry, the petitioner has given a false address and laid the case and hence, the request for the transfer should not be entertained. Further, it is also stated that the respondent is ready to pay necessary expenses that the petitioner would incur in attending the proceeding at Chennai Court and therefore, the reasonings of the petitioner that she would incur expenses by attending the proceeding at Chennai Court is not justifiable. Further, it is also stated by the respondent that the respondent is put to unnecessary pressure for settlement by the petitioner and her father and their men and in such view of the matter, the respondent feels unsafe and also apprehends danger to his life and body in the event of the transfer of the proceeding to Puducherry Court and accordingly, prayed for dismissal of the transfer petition. Further, it is also stated by the respondent that in the event of the Court is inclined to accept the transfer request of the petitioner, a midway Court may be chosen by the Court convenient to both the parties, nearer to Puducherry Court in the interest of justice.

6.Two proceedings laid by the respective parties are pending in different forums, concerning the matrimonial issues involved between them and in such view of matter, in my considered opinion, 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 by way of the same, conflict of decisions could also be avoided. Furthermore, the parties also would be required to adduce common evidence. Thus, the cause of justice would be advanced, if the abovesaid two proceedings are clubbed together and determined by one and the same Court.

7.The reason given by the petitioner for seeking the transfer that she is unable to attend the proceeding at Chennai Court as she has to incur heavy expenses, as such, cannot be readily accepted. It is stated by the respondent that he is ready to pay the necessary expenses that the petitioner may require in attending the proceeding at Chennai Court. However, the petitioner would contend that considering the distance between Puducherry and Chennai Court and the petitioner being a

lady, the Court should accept the transfer request of the petitioner.

8. In this connection, the respondent would contend that the address given by the petitioner at Puducherry is found to be a fake address and accordingly, contended that the same had been projected only for laying the proceeding at Puducherry Court. Be that as it may, the petitioner being a lady, would find it difficult to attend the proceeding at Chennai Court on each and every occasion, accordingly, it is seen that the above reason projected by the petitioner also has to be taken into consideration. Consequently, the respondent also has put forth certain inconvenience and hardship in attending the proceeding at Puducherry Court and the same should also be taken into consideration.

9. Inasmuch as this Court feels that the proceedings laid by the respective parties should be tried and determined by one and the same Court as above discussed and in such view of the matter, in my considered opinion, a midway Court would be ideal for the conduct of the proceedings, so that, the respective parties would not be put to loss and hardship in toto and accordingly, considering the place of residence of the petitioner as well as the respondent, the family Court at Villupuram would be ideal for the conduct of the abovesaid proceedings laid by the respective parties.

10. For the reasons aforesaid, I.D.O.P.No.96 of 2017 is withdrawn from the file of the VI Additional Family Court, Chennai and O.S.No.41 of 2018 is withdrawn from the file of the Family Court, Puducherry and both the proceedings are transferred to the file of the Villupuram Family Court for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP No.15251 of 2018 is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

sms

To

1.The VI Additional Family Court, Chennai.

2.The Principal Family Judge
Family Court, Puducherry.

3.The Family Court, Villupuram.

+1 CC to Mr.V.P.Raju, Advocate sr 71884.

+3 Ccs to M/s.C. Shyamala, Advocate sr 71852.

Transfer CMP.No.624 of 2018
and
CMP.No.15251 of 2018

RK(CO)
SP(26/11/2018)



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