

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.10.2018

PRONOUNCED ON : 26.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.633 of 2018

and

CMP.No.15632 of 2018

Priyadharshini ... Petitioner
Vs.

A.Sakthisanthanam @ Sathish ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the case in HMOP No.155 of 2016 pending on the file of the Principal Sub-Court, Thanjavur to the file of the Family Court at Chennai.

For Petitioner : Mr.C.Rajan

For Respondent : Mr.R.Jaikumar
for M/s.T.Fennwalter Associates

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 respondent has levied HMOP No.155 of 2016 for divorce against the petitioner and the same is pending on the file of the Principal Sub-Court, Thanjavur. It is also noted that the petitioner has levied HMOP No.3957 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the II Additional Family Court, Chennai.

4.Seeking transfer of the respondent proceeding from Thanjavur Court to Chennai Court, the present transfer petition has been laid by the petitioner on the footing that she is residing at Chennai with her parents and unable to travel to Thanjavur as she has to look after her female child aged two years and also she is unemployed and therefore, would incur

heavy expenses in attending the proceeding at Thanjavur Court now and then and there is compulsion on the part of the respondent in submitting the decree for divorce and accordingly, sought for the transfer. During the course of arguments, the petitioner's counsel contended that thereby the petitioner is apprehending danger to her life and body at the hands of the respondent, while attending the proceeding at Thanjavur Court.

5.The respondent has resisted the transfer request of the petitioner contending that the same had been putforth only to cause inconvenience and hardship to the respondent and it is stated that the respondent is feeling insecure in attending the proceeding at Chennai Court and accordingly, it is also stated that complaint had been lodged against the petitioner and her men and therefore, putforth the case that the transfer request of the petitioner should not be acceded to.

6.Two proceedings are pending concerning the matrimonial issues of the parties in two different forums, in my considered opinion, in such view of the matter, 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 Thanjavur Court, as the distance between Thanjavur and Chennai is on the higher side. Furthermore, it is also noted that the petitioner is required to look after her young female child and also the fact that she is unemployed and thereby, she would incur expenses in attending the proceeding at Thanjavur Court cannot be easily brushed aside. It is thus seen that the petitioner has putforth sufficient cause in seeking the transfer prayed for by her.

8.No doubt, the respondent would contend that he would feel insecure at the hands of the petitioner and her men in attending the proceeding at Chennai Court. Equally, the petitioner has also averred that the respondent is forcing her to submit to the decree for divorce at Thanjavur Court and accordingly, she also apprehends danger to her life and body at the hands of the respondent and his men. Therefore, the parties blame each other for insecurity and in such view of the matter, it is seen that if at all there is any threat or endangerment, as projected by either of the parties, it is always open to them to seek necessary legal redressal with reference to the same in the manner known to law.

9.Considering the reasons projected by the petitioner for transfer and also the fact that the two proceedings pertaining to the marital issues of the parties should be tried and determined by one and the same Court and also the fact remains, that in any event the respondent would be required to defend the proceeding laid by the petitioner at Chennai Court, in all, it is found that by way of the same, if proceedings of both the parties are conducted at Chennai Court, no serious prejudice or hardship would be caused to the respondent.

10.For the reasons aforesated, sufficient cause having been projected by the petitioner for acceding to the transfer request made by her, in all, HMOP No.155 of 2016 is withdrawn from the file of the Principal Sub-Court, Thanjavur and transferred to the file of the II Additional Family Court, Chennai for joint trial along with HMOP No.3957 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP No.15632 of 2018 is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

sms
To

- 1.The Principal Sub-Court, Thanjavur.
- 2.The II Additional Family Court, Chennai.

+2 Ccs to Mr.C. Rajan, Advocate sr 73208.
+1 CC to M/s.T. Fennwalter, Advocate sr 73525.

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SKV(CO)
SP(02/11/2018)

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