

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.Nos.638 & 639 of 2018

S.Gayathri @ Muthulakshmi ... Petitioner

Vs.

N.Prasanna @ Meenakshi Sundaram... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw HMOP No.4445 of 2016 & HMOP No.4206 of 2017 from the file of the Principal Family Court, Chennai and transfer the same to any other Court, which is having jurisdiction in Kanchipuram District.

For Petitioner : Mr.R.Bharath Kumar
in both petitions

For Respondent : Ms.N.S.Revathi
in both petitions

COMMON ORDER

The petitioner, in both the petitions, is the wife. The respondent, in both the petitions, is the husband.

2.All is not well qua the marital life of the petitioner and the respondent.

3.It is seen that the petitioner has laid HMOP No.4206 of 2017 against the respondent for restitution of conjugal rights and the same is pending on the file of the Principal Family Court, Chennai. The respondent has levied HMOP No.4445 of 2016 for divorce against the petitioner and the same is pending on the file of the Principal Family Court, Chennai.

4.Considering the materials placed on record, it is seen that several interlocutory proceedings have been initiated by the respective parties in the abovesaid proceedings and accordingly, it is found that the matters are at present ripe for enquiry in both the proceedings. While the matters are at that stage, it is found that the present transfer CMPs had been laid by the petitioner on the footing that inasmuch as she is a resident of Pallikaranai, Kancheepuram District and employed in a private concern and unable to seek leave for attending the proceedings at Chennai Court and as the petitioner is experiencing difficulty and inconvenience in attending the proceedings at Chennai Court for each and every hearing, accordingly, prayed for the transfer of the abovesaid proceedings to any other Court in Kancheepuram District for disposal as per law.

5.Resisting the abovesaid transfer requests of the petitioner, the respondent would contend that the proceedings laid by the petitioner as well as the respondent had been taken up for enquiry and the petitioner has also levied interim application for seeking interim maintenance and thereafter, when the matter had been taken up for enquiry, at that stage of the matter, deliberately with a view to cause delay in the conduct of the proceedings and cause hardship and inconvenience to the respondent, the petitioner has levied the transfer petitions and hence, prayed for the rejection of the transfer request of the petitioner.

6.As abovenoted, considering the institution of the abovesaid proceedings in the Court at Chennai, it is seen that all along, the petitioner herein as well as the respondent had been attending the proceedings in Chennai Court and accordingly, the matters had been heard by the concerned Court at length with reference to the issues involved between the parties and also, it is found that the matters are ripe for enquiry and on the other hand, it is seen that it is only the petitioner, who has been protracting the proceedings one way or the other by filing application after application and accordingly, it is seen that to delay the proceedings further, the petitioner has come forward with the transfer CMPs. The petitioner has also averred in the petition that the respondent is pressuring the trial Court to proceed with the trial and therefore, it is seen that the aim of the petitioner in filing the transfer petitions is only to delay the proceedings endlessly, so as to cause unnecessary hardship and trouble to the respondent. When it is seen that all along, the petitioner had been attending the proceedings at Chennai Court and also preferring necessary applications for maintenance and other reliefs, the request of the petitioner for the transfer to the Court at Kancheepuram found to be not bonafidely made and on the other hand, as rightly put forth by the respondent, only to stall the proceedings further, it is found that the transfer petitions have been laid. Considering the fact that the proceedings at Chennai Court are ready for enquiry, in such view of the matter, the requests for the transfer projected by the petitioner cannot be accepted, particularly, when the reasons given for the transfer are not justified and worth acceptance.

7.Further, considering the residence of the petitioner and also her employment, it is seen that the same would not by itself hinder the petitioner from participating in the proceedings at Chennai Court and when all along the petitioner had been participating in the proceedings one way or the other, it is seen that the continuance of the proceedings at Chennai Court would not cause any loss and hardship to the petitioner and therefore, if at this stage of the matter, the proceedings are ordered to be preferred to some other Court, as rightly put forth, the matters would have to be started from the beginning by the transferee Court and it would still further delay the proceedings unnecessarily.

In the light of the above factors, I do not find sufficient cause for accepting the transfer requests prayed for by the petitioner and resultantly, the transfer petitions are dismissed. Consequently, connected miscellaneous petitions, if any, are closed.

23.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

The Principal Family Court, Chennai.

T.RAVINDRAN, J.

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Pre-delivery Order made
in
Transfer CMP.Nos.638 & 639 of 2018

23.10.2018

