

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.10.2018

PRONOUNCED ON : 22.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.643 of 2018

and

CMP.No.15854 of 2018

Alamelu ... Petitioner

Vs.

G.Kumar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.101 of 2018 on the file of the Sub-Judge, Omalur and transfer the same to the file of the Family Court, Dharmapuri to be tried along with FCMC No.36 of 2018.

For Petitioner : Mr.M.Selvam

For Respondent : No appearance
set exparte vide order
dated 11.10.2018

ORDER

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

2.All is not well qua the marital life of the parties.

3.The petitioner has filed FCMC No.36 of 2018 for maintenance against the respondent and the same is pending on the file of the Family Court, Dharmapuri. The respondent has levied HMOP No.101 of 2018 for restitution of conjugal rights against the petitioner and the same is pending on the file of the Sub-Court, Omalur.

4.Seeking transfer of the matrimonial proceeding of the respondent from Omalur Court to Dharmapuri Court, the present transfer petition has been laid by the petitioner on the footing that she is a resident of Dharmapuri District and unable to attend the proceeding at Omalur Court and depending upon her parents and unable to maintain herself and accordingly, prayed for the transfer.

5.In this matter, though the respondent had been served, he has not chosen to contest the transfer request of the petitioner and accordingly, he having been called and remaining absent, been set exparte.

6.The petitioner has putforth certain inconvenience and hardship in attending the proceeding at Omalur Court, and the same has not been controverted by the respondent.

7.Furthermore, the petitioner's maintenance case is pending on the file of the Family Court, Dharmapuri, the respondent having levied HMOP for restitution of conjugal rights, accordingly, it is seen that the common issues would arise for consideration in both the proceedings and in such view of the matter, in my considered opinion, the joint trial 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, it is seen that the cause of justice would be advanced, if both the proceedings are clubbed together and determined by one and the same Court.

8.Inasmuch as the respondent is found to be not seriously handicapped and prejudiced in the transfer request projected by the petitioner, accordingly, it is seen that he has not evinced interest to contest the same by entering appearance either in person or through an advocate.

For the reasons aforestated, HMOP No.101 of 2018 is withdrawn from the file of the Sub-Court, Omalur and transferred to the file of the Family Court, Dharmapuri for joint trial along with FCMC No.36 of 2018 and accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.15854 of 2018 is closed.

22.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Sub-Court, Omalur.
- 2.The Family Court, Dharmapuri.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.643 of 2018
and
CMP.No.15854 of 2018

22.10.2018