

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.10.2018

PRONOUNCED ON : 10 .10 .2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

TR CMP.646/2018

and

CMP.16003/2018

MahalakshmiPetitioner

Vs.

T.SubburajRespondent

Prayer:

Transfer CMP is filed under Section 24 of Civil Procedure Code, praying to withdraw HMOP. No.123/2018 from the file of Subordinate Court, Sankarankoil and to transfer the same to VI additional family court, Chennai where the HMOP No.3456 of 2018 is pending to be tried together.

For Petitioner : Mr.R.Srinivas

For Respondent : Mr.R.S.Krishnaswamy

ORDER

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

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

3. It is seen that that the respondent has laid HMOP No.123/2018 against the petitioner seeking divorce and the same is pending on the file of the subordinate court, Sankarankoil. The petitioner has laid HMOP No.3456 of 2018 seeking restitution of conjugal rights against the respondent and the same is pending on the file of the VI additional family court, Chennai.

4. Seeking transfer of the abovesaid proceeding laid by the respondent from the court of Sankarankoil to the family court at Chennai, the transfer petition has been laid by the petitioner on the footing that the petitioner is a resident of Chennai and

unable to travel to the court at Sankarankoil on account of the long distance between her residence and the said court and also the petitioner being dependant upon her parents and studied only upto 9th standard and accordingly unable to travel alone to the court at Sankarankoil for defending the proceeding laid by the respondent and furthermore contending that inasmuch as she has laid the matrimonial proceeding against the respondent and the same is pending on the file of the family court at Chennai, according to her consolidation of the abovesaid two proceedings and determination of the same by one and the same court would be beneficial to both the parties and accordingly prayed for the transfer.

5. The respondent's counsel contended that by way of the conduct of the proceeding at Sankarankoil Court, no serious prejudice or loss would be caused to the petitioner and it is stated that only with a view to cause inconvenience and hardship to the respondent and to delay the proceeding endlessly, the transfer petition has been laid by the petitioner and accordingly prayed for the dismissal of the transfer petition.

6. Admittedly, two proceedings are pending before two different forums concerning the marital life of the parties. In such view of the matter, consolidation of the abovesaid two proceedings and 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. In addition to that, by joint trial of the abovesaid two proceedings, the parties would also be required to adduce common evidence in both the proceedings. Thus it is seen that consolidation of two proceedings and determination of the same by one and the same court would advance the cause of justice. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Sankarankoil court. Admittedly, the distance between Chennai and Sankarankoil is on the higher side, therefore, the petitioner, being a lady and depending upon her parents and also not a literate, as such, would find it difficult to defend the proceeding alone at Sankarankoil. On the other hand, if the proceeding of the respondent is transferred to the family court at Chennai, by way of the same, it is seen that no serious prejudice would be caused to the respondent as the respondent would be required to defend the proceeding laid by the petitioner at family court, Chennai. Thus, it is noted that the petitioner has made out sufficient cause for acceding to the transfer request put forth by her.

7. For the reasons above stated, HMOP. No.123/2018 is withdrawn from the file of Subordinate Court, Sankarankoil and transferred to the file VI additional family court, Chennai, for joint trial alongwith HMOP No.3456 of 2018 as per law.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

bga

To

1. The Subordinate Court, Sankarankoil

2. The VI additional family court, Chennai

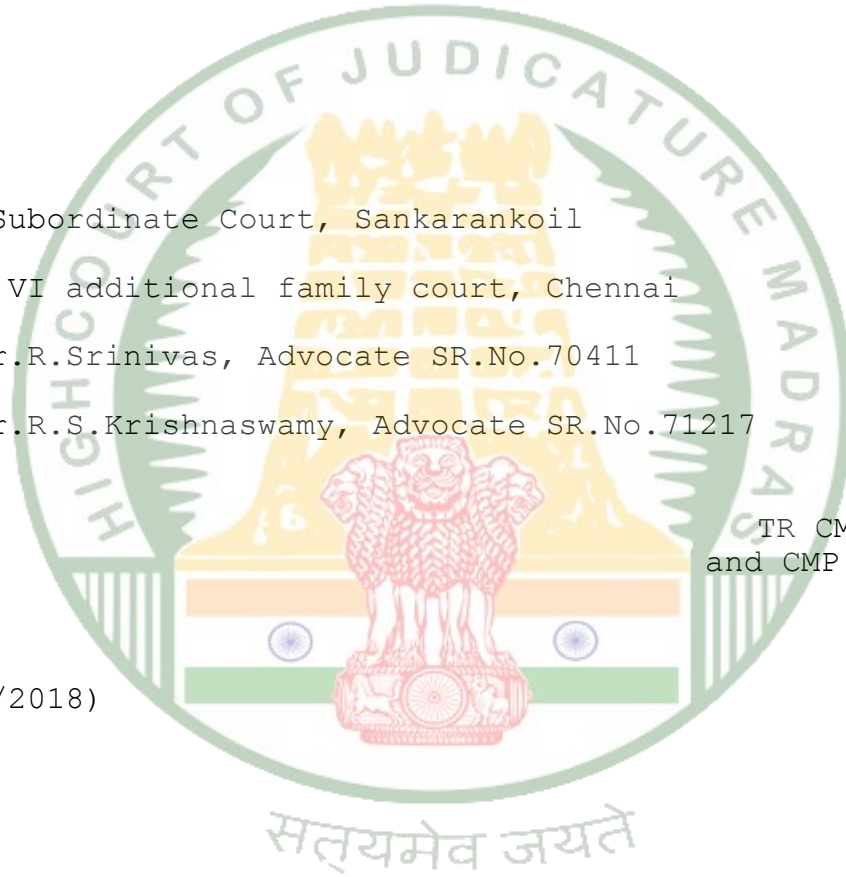
+1cc to Mr.R.Srinivas, Advocate SR.No.70411

+1cc to Mr.R.S.Krishnaswamy, Advocate SR.No.71217

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and CMP.16003/2018

PA (CO)

GMV (02/11/2018)



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