

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.10.2018

PRONOUNCED ON : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.657 of 2018

A.Rashmi ... Petitioner

Vs.

R.Harihara Srinivasan ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.68 of 2018 from the file of the Sub-Court, Pattukottai, Tanjore District and transfer the same to be tried along with HMOP No.72 of 2018 on the file of the Sub-Court, Dharapuram.

For Petitioner : Mr.A.K.Sridharan

For Respondent : Mr.A.M.Venkatakrishnan

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 respondent has levied HMOP No.68 of 2018 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Sub-Court, Pattukottai. The petitioner has levied HMOP No.72 of 2018 against the respondent for divorce and the same is pending on the file of the Sub-Court, Dharapuram.

4.Seeking transfer of the matrimonial proceeding of the respondent to the Sub-Court, Dharapuram, the Petitioner has come forward with the transfer petition on the footing that she is residing at Dharapuram and the distance between Dharapuram and Pattukottai is on the higher side and the petitioner is experiencing difficult and inconvenience in attending the Court at Pattukottai and the petitioner has no male support to attend the proceeding at Pattukottai and also has to spend considerable time in travelling to Pattukottai and accordingly, sought for the transfer.

5.The respondent resisted the transfer request of the petitioner contending that the transfer request had been made by the petitioner only to cause hardship and inconvenience to the respondent and further, according to the respondent's counsel, there is a life threat to the respondent in the event of attending the proceeding at Dharapuram Court and therefore, sought for the dismissal of the transfer petition.

6.Considering the materials placed on record, it is seen that as regards the marital issues between the parties, two proceedings laid by the respective parties are pending in different forums. 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 respondent would be required to travel to Dharapuram Court for defending the proceeding laid by the petitioner, accordingly, it is seen that if the proceeding of the respondent is transferred from Pattukottai Court as such, no serious loss and hardship would be caused to the respondent. In addition to that, as seen from the materials placed on record, it is found that the respondent is employed at Gujarat State, in such view of the matter, the presence of the respondent not being required on all the hearing dates and the respondent could also very well conduct/defend the proceeding through his counsel, it is found that the respondent as such would not be seriously prejudiced, if the proceedings abovestated are conducted at Dharapuram Court.

8.The petitioner has putforth certain inconvenience and hardship in attending the proceeding at Pattukottai Court. No doubt, the same are pending repudiated by the respondent. However, considering the distance between the petitioner's residence and Pattukottai, it is seen that it is on the higher side and in such view of the matter, it is noted that the petitioner being a lady, would be finding it difficult and inconvenient to attend the proceeding at Pattukottai.

9.The respondent's counsel would contend that there is a life threat to the respondent at the hands of the petitioner and her men, if he were to attend the proceeding at Dharapuram Court. However, till date, the respondent has not placed any material to evidence that the petitioner had wielded any threat to his life and body, and if that be so, the respondent would have initiated necessary legal action against the petitioner. Therefore, the alleged life threat projected by the respondent is found to be putforth only for the purpose of this case.

10.Considering the reasons aforestated, it is seen that the petitioner has made out a sufficient cause for acceding to the transfer request putforth by the petitioner.

Resultantly, HMOP No.68 of 2018 is withdrawn from the file of the Sub-Court, Pattukottai and transferred to the file of the Sub-Court, Dharapuram for joint trial along with HMOP No.72 of 2018 as per law. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition, if any, is closed.

Index : Yes / No

Internet : Yes / No

sms 12.10.2018

To

1.The Sub-Court, Pattukottai.

2.The Sub-Court, Dharapuram.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.657 of 2018

12.10.2018