

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.10.2018

PRONOUNCED ON : 23.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.668 of 2018

D.Mangala @ Chithra ... Petitioner

Vs.

V.Seshathiri ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the FCOP No.69 of 2018 on the file of the Family Court, Chengalpattu and transfer the same to the file of the Sub-Court, Ponneri to be heard along with O.P.No.135 of 2018.

For Petitioner : Mr.M.Chidambaram

For Respondent : Mr.K.Dilithkumar

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 divorce case against the petitioner in OP No.69 of 2018 and the same is pending on the file of the Family Court, Chengalpattu. The petitioner has levied O.P.No.135 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the Sub-Court, Ponneri.

4.Seeking transfer of the matrimonial proceeding of the respondent from Chengalpattu Court to Ponneri Court, the transfer petition has been laid by the petitioner on the footing that she is a resident of Chennai and unable to attend the proceeding at Chengalpattu as there is no proper transport facility from her residence to Chengalpattu Court and also she apprehends danger to her life and body at the hands of the respondent and further, she has also stated that though she has difficulty in attending the proceeding at Ponneri Court, due to non availability of transport, she had been constrained to file the OP in the Ponneri Court for restitution of conjugal rights as abovestated and accordingly, prayed for the transfer.

5.The respondent contended that the reasons given by the petitioner for the transfer are not bona fide and acceptable and according to him, only to harras him and cause inconvenience, the transfer petition has been laid and further, according to the respondent, the continuance of the proceeding at Chengalpattu Court would not in any manner cause loss and hardship to the petitioner considering her residence and further, during the course of arguments, it is submitted on behalf of the

respondent that in the event of the Court inclining to accept the transfer request as put forth by the petitioner, considering the residence of the petitioner located at Chennai and also the residence of the respondent at Chengalpattu Taluk, it is his request that both the proceedings may be transferred to Chennai Court, as the same would be convenient to both the parties and accordingly, prayed for appropriate orders.

6.Considering the matrimonial issues between the parties, as it is seen that two proceedings are pending in two different forums, 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 both the proceedings are clubbed together and determined by one and the same court.

7.The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Chengalpattu Court, mainly, on the footing that there is no proper transport facility. The respondent has also put forth the same reason in attending the proceeding at Ponneri Court, where, the petitioner had levied OP for restitution of conjugal rights. Now, according to the respondent, the abovesaid reason projected by the petitioner for effecting the transfer to Ponneri Court is not genuine and made to harras him and cause hardship and the respondent would also contend that in the event of the Court transferring the proceeding to Ponneri Court, he would be put to great loss as there is no proper transport facility to Ponneri Court from his residence. Thus, it is seen that even as per the case of the petitioner and as submitted by the respondent as to the conduct of the proceedings at Ponneri Court, both the parties have expressed reservation and hardship and accordingly, it is seen that considering the residence of the petitioner at Chennai as well as the residence of the respondent at Chengalpattu Taluk, as rightly put forth by the respondent, if both the proceedings are transferred to Chennai Court, by way of the same, it is seen that both the parties would be benefited in all aspects and accordingly, the interest of justice would also be served and no serious prejudice would be caused to either of the parties by way of the same.

8.For the reasons aforestated, FCOP No.69 of 2018 is withdrawn from the file of the Family Court, Chengalpattu and O.P.No.135 of 2018 is withdrawn from the file of the Sub-Court, Ponneri and both the abovesaid proceedings are transferred to the file of the Principal Family Court, Chennai for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous Petition is disposed of. Consequently, connected Civil Miscellaneous petition, if any, is closed.

23.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Family Court, Chengalpattu.
- 2.The Sub-Court, Ponneri.
- 3.The Principal Family Court, Chennai.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.668 of 2018

23.10.2018