

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.10.2018

PRONOUNCED ON : 25.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.673 of 2018

D.Ambika Petitioner/Respondent

Vs.

HaribaskarRespondent/ Petitioner

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the case in HMOP No.129 of 2014 pending on the file of the learned Subordinate Court, Karur and transfer the same to the Hon'ble Family Court, Coimbatore to be tried along with HMOP No.1172 of 2018.

For Petitioner : Mr.V.Sivakumar

For Respondent : Mr.A.Thamilvanan

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 HMOP No.129 of 2014 against the petitioner for divorce and the same is pending on the file of the Sub-Court, Karur. The petitioner has levied HMOP No.1172 of 2018 for restitution of conjugal rights and the same is pending on the file of the Family Court, Coimbatore.

4.Seeking transfer of the matrimonial proceeding of the respondent to Coimbatore Court, the present transfer petition has been laid by the petitioner on the footing that the petitioner is an unemployed lady, depending upon her parents and has to look after her daughter, who is a school going child and considering the distance between Coimbatore and Karur being on

the higher side, the petitioner is finding it difficult to attend the proceeding at Karur Court and further more, inasmuch as the OP for restitution of conjugal rights preferred by the petitioner is pending on the file of the Coimbatore Court, prayed for the conduct of the two proceedings by the Court at Coimbatore and requested for the transfer.

5.The respondent contended that the reasons given by the petitioner for seeking the transfer are not genuine and bona fide and only to harass him, the present transfer petition has been laid and prayed for the dismissal of the petition.

6.Two proceedings are pending concerning the matrimonial issues of the parties in two different forums. In such view of the matter, as rightly putforth, the consolidation of 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. Therefore, 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 putforth certain inconvenience and hardship in attending the proceeding at Karur Court. Further, according to the petitioner, the mediation efforts initiated at Karur Court for reunion of the parties did not fructify and hence, she had been constrained to lay the OP for restitution of conjugal rights at Coimbatore Court, where, she is residing. Further, it is stated by the petitioner that the distance between Karur and Coimbatore is on the higher side and she has to look after her only child and therefore, expressing difficulty and hardship in attending the proceeding at Karur Court and if the proceedings are conducted at Coimbatore Court, no serious prejudice or loss would be caused to the respondent and accordingly, prayed for the transfer.

8.Considering the reasons given by the petitioner for effecting the transfer, it is seen that the petitioner has to look after her child and also unable to attend the proceeding at Karur Court, as the distance between Coimbatore and Karur is on the higher side. Furthermore, it is found that the respondent would be required to defend the OP laid by the petitioner at Coimbatore Court. In such view of the matter, if the proceeding pending on the file of the Karur Court is transferred to Coimbatore Court and the matters are directed to be tried jointly, no serious loss and hardship would be caused to the respondent and on the other hand, it is found that by way of the same, both the parties would be benefited as such. In such view of the matter, it is seen that the request for transfer prayed

for by the petitioner is acceptable.

9.For the reasons aforesaid, HMOP No.129 of 2014 is withdrawn from the file of the Sub-Court, Karur and transferred to the file of the Family Court, Coimbatore for joint trial along with HMOP No.1172 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected Civil Miscellaneous petitions, if any, are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Court, Karur.

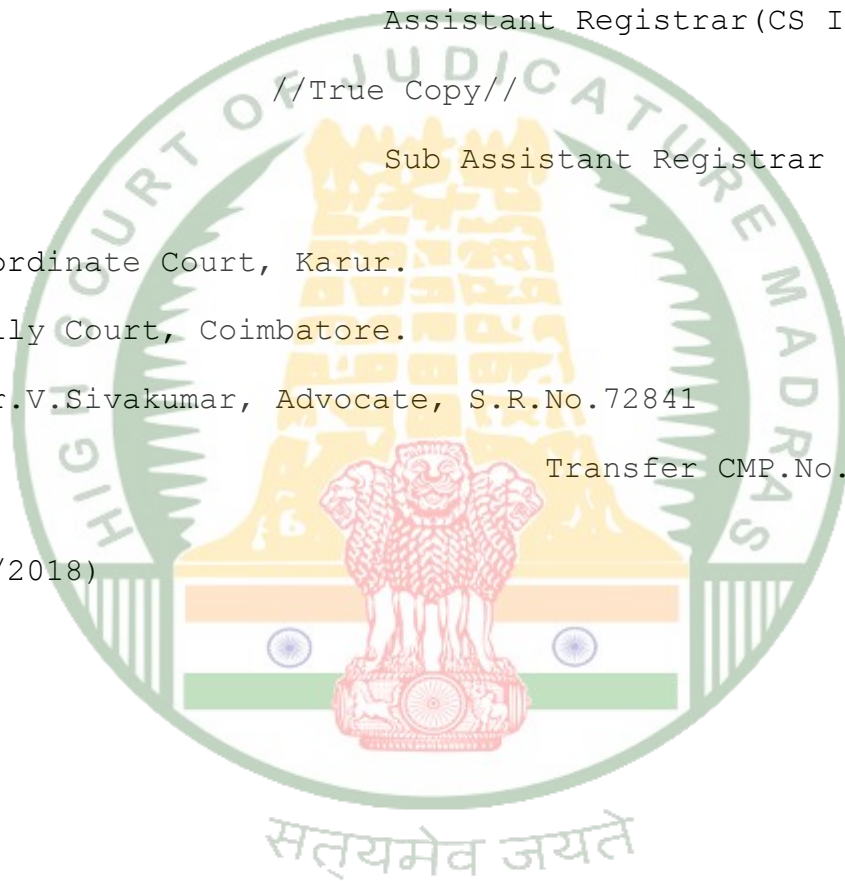
2.The Family Court, Coimbatore.

+1cc to Mr.V.Sivakumar, Advocate, S.R.No.72841

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SR(CO)

GSP(14/11/2018)



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