

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2018

PRONOUNCED ON : 25.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.675 of 2018

and

CMP No.16646 of 2018

S.Dhilip Kumar ...Petitioner/Respondent

Vs.

D.Kavitha ...Respondent/ Petitioner

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw and transfer the petition in HMOP No.151 of 2018 from the file of the Subordinate Court, Poonamalle filed by the petitioner to the Hon'ble II Additional Family Court, Chennai to be heard along with HMOP No.2319 of 2018 filed by the respondent.

For Petitioner : Mr.G.Thyagarajan

For Respondent : No appearance
set exparte vide order
dated 23.10.2018

ORDER

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

2.All is not well qua the marital life of the petitioner and the respondent.

3.The respondent has levied Domestic Violence case against the petitioner in D.V.No.12 of 2017 and the same is pending on the file of the Judicial Magistrate Court No.1, Poonamallee. Further, the petitioner has filed a divorce case against the respondent in HMOP No.151 of 2018 and the same is pending on the file of the Sub-Court, Poonammallee. The respondent has filed the OP against the petitioner for restitution of conjugal rights in HMOP No.2319 of 2018 and the same is pending on the file of the II Additional Family Court, Chennai.

4. In the light of the abovesaid matrimonial proceedings pending between the parties, considering the issues involved in the matrimonial proceedings levied by the petitioner as well as the respondent being similar and accordingly, as the same should be tried and determined by one and the same Court and accordingly, the petitioner has come forward with the transfer petition seeking the transfer of his matrimonial proceeding pending on the file of the Sub-Court, Poonamallee to the file of the II Additional Family Court, Chennai for joint trial along with the matrimonial proceeding laid by the respondent in HMOP No.2319 of 2018.

5. Insofar as this matter is concerned, though the respondent had been served, she has not evinced any interest to challenge the transfer request put forth by the petitioner either in person or through her advocate and accordingly, she having been called and remaining absent, been set *ex parte*.

6. Two proceedings are pending between the parties as regards their marital issues in two different forums. In such view of the matter, as rightly put forth by the petitioner, 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 be avoided and also the parties would be required to adduce common evidence in both the proceedings. Thus, it is found that the cause of justice would be advanced, if the two proceedings are jointly tried and determined by one and the same Court.

7. Accordingly, it is seen that the petitioner has come forward with the petition for the transfer of the proceeding laid by him from Poonamallee Court to Chennai Court. Inasmuch as the transfer request put forth by the petitioner seems acceptable, particularly, for the reasons aforesaid and furthermore, as the respondent has also not challenged the transfer request of the petitioner, in all, it is seen that the petitioner has projected a sufficient cause for acceding to the transfer request projected by him.

8. For the reasons aforesaid, HMOP No.151 of 2018 is withdrawn from the file of the Sub-Court, Poonamallee and transferred to the file of the II Additional Family Court, Chennai for joint trial along with HMOP No.2319 of 2018 as per law.

Accordingly, Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP No.16646 of 2018 is closed.

I

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

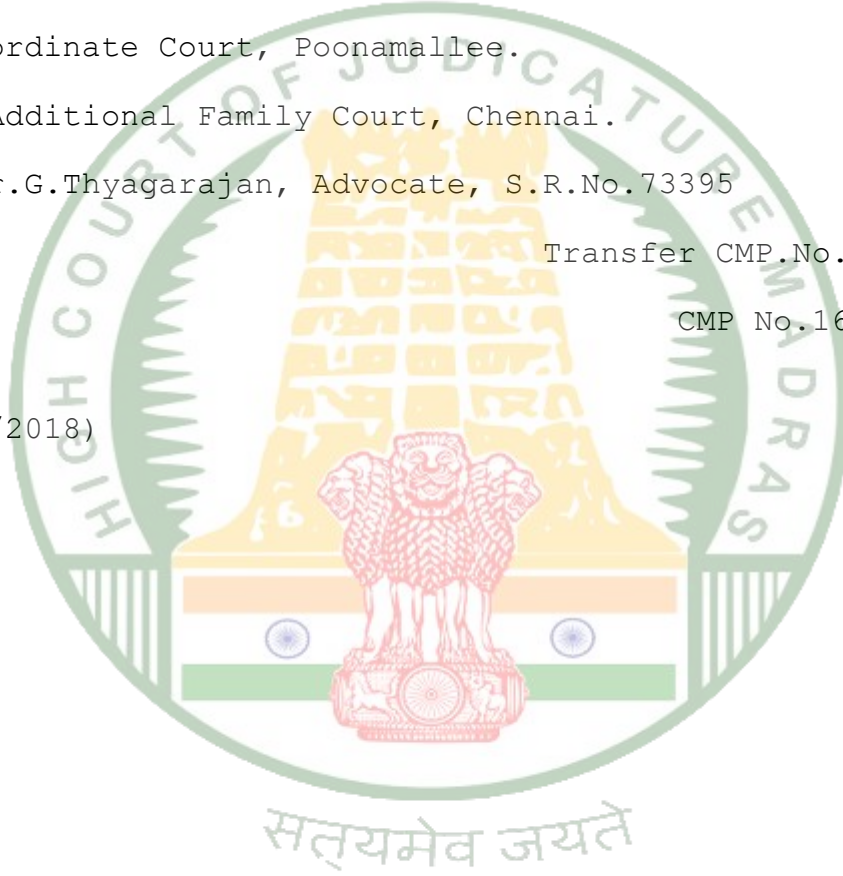
1.The Subordinate Court, Poonamallee.

2.The II Additional Family Court, Chennai.

+1cc to Mr.G.Thyagarajan, Advocate, S.R.No.73395

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SR(CO)
GSP(14/11/2018)



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