

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :24.10.2018

PRONOUNCED ON:26.10.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.677 of 2018

and

C.M.P.No.16658 of 2018

Parveen

...Petitioner

Vs.

K.A.Mohammed Diwan Mohideen

...Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the proceedings in O.S.No.31 of 2018 on the file of the Family Court at Madurai and transfer the same to be heard and tried along with O.S.No.160 of 2018 on the file of the II Additional Family Court at Chennai.

For Petitioner : Mrs.V.Srimathi

For Respondent : No appearance
Set exparte
Vide order dated 24.10.2018

O R D E R

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. It is seen that the respondent has filed a suit in O.S.No.31 of 2018 against the petitioner for the dissolution of the marriage and the same is pending on the file of the Family Court, Madurai. The petitioner has filed O.S.No.160 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the II Additional Family Court, Chennai.

3. Seeking transfer of the proceeding laid by the respondent to Chennai Court for joint trial along with the proceeding laid by her, the present transfer petition has been laid by the petitioner, putting forth that the distance between Chennai and

Madurai is on the higher side and she is residing with her aged parents and unable to attend the proceeding at Madurai Court and also has to look after her young son, who is studying I standard and also undergoing further education and therefore sought for the transfer. Furthermore, it is also stated by her that the respondent is residing only at Chennai along with his sister and therefore by way of the transfer of the proceeding from Madurai court to Chennai court, no loss or hardship would be caused to the respondent in any manner.

4. In so far as this case is concerned, though the respondent had been served, he has not chosen to contest the transfer request of the petitioner and he having been called and remaining absent, been set exparte.

5. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Madurai Court. The same has not been controverted by the respondent. Considering the distance between Madurai and Chennai and the fact that the petitioner's parents are aged and unable to accompany her to Madurai and furthermore as the petitioner has also to look after her young son and also needed to pursue her education, it is seen that the petitioner has put forth sufficient cause for her inability to attend the proceeding at Madurai Court. Accordingly, it is seen that the respondent had also not chosen to challenge the same.

6. The petitioner has also put forth the case that the respondent is residing only at Chennai in his sister's residence and the same is also not controverted by the respondent and accordingly, it is found that by way of the transfer of the proceeding from Madurai Court to Chennai Court, the respondent would not be seriously prejudiced and put to loss or hardship.

7. The two proceedings are pending between the parties, concerning the marital issues involved between them, in such view of the 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 be avoided and the parties also would be required to adduce common evidence. Thus, it is found that the cause of justice would be advanced, if both the proceedings of the parties are clubbed together and determined by one and the same court.

8. For the reasons aforesaid, it is seen that the petitioner has made out a sufficient cause for acceding to the transfer request. In conclusion, O.S.No.31 of 2018 is withdrawn from the Family Court Madurai and transferred to the file of II

Additional Family Court, Chennai for joint trial along with O.S.No.160 of 2018 as per law. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition, if any, is closed.

mfa

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court at Madurai.

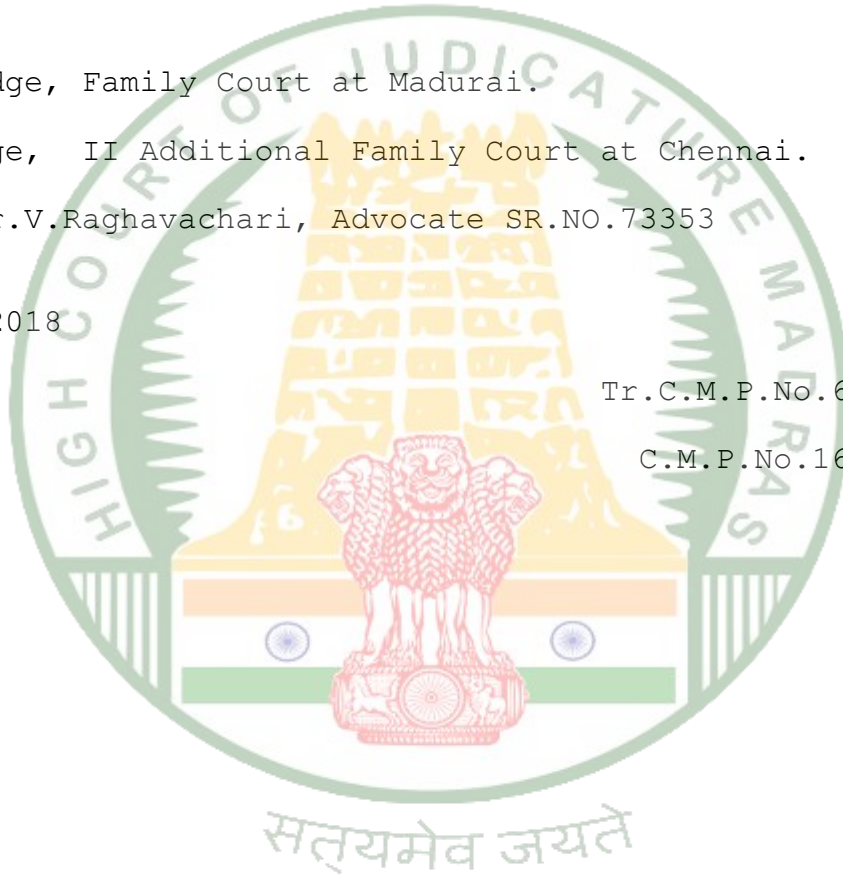
2.The Judge, II Additional Family Court at Chennai.

+lcc to Mr.V.Raghavachari, Advocate SR.NO.73353

NRJK (CO)

sm:15.11.2018

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