

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.10.2018

PRONOUNCED ON : 09.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.Nos.679 & 594 of 2018

P.Subashini ... Petitioner in
both Tr.CMPs.

Vs.

Minor Aarav and Minor Aarna
both are twin children aged
about 4 years and represented
by their Father/Guardian
P.Palaniappan S/o. V.R.Parivel
No.21/8, Pei Gopura 4th Street,
Tiruvannamalai - 606 601.

... Respondent in
Tr.CMP.No.679 of 2018

P.Palaniappan ... Respondent in
Tr.CMP.No.594 of 2018

Prayer in Tr.CMP.No.679 of 2018 :- Transfer Civil Miscellaneous
Petition has been filed under Section 24 of CPC to withdraw the
petition in GWOP No.5 of 2018 pending on the file of the Hon'ble
District & Sessions Court, Tiruvannamalai and the same may be
transferred to the Hon'ble Additional District & Sessions Court,
Kumbakonam, Thanjavur District.

Prayer in Tr.CMP.No.594 of 2018 :- Transfer Civil Miscellaneous
Petition has been filed under Section 24 of CPC to withdraw the
petition in HMOP No.63 of 2018 pending on the file of the
Hon'ble Sub-Court, Tiruvannamalai and the same may be
transferred to the Hon'ble Sub-Court, Kumbakonam, Thanjavur
District.

For Petitioner : Mr.S.Kasirajan
in both the petitions

For Respondent : Mr.C.Prakasam
in both the petitions

COMMON ORDER

The wife is the petitioner and the husband is the respondent in both Transfer CMPs.

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

3.It is found that seeking maintenance for herself and her two children, the petitioner has laid the case against the respondent in M.C.No.21 of 2018 and the same is pending on the file of the Chief Judicial Magistrate Court, Thanjavur at Kumbakonam. It is further seen that the respondent has laid a divorce case against the petitioner and the same is pending on the file of the Sub-Court, Thiruvannamalai. Furthermore, it is also seen that the respondent has laid GWOP No.5 of 2018 against the petitioner and the same is pending on the file of the District and Sessions Court, Thiruvannamalai.

4.Seeking transfer of the matrimonial proceeding and the guardian OP filed by the respondent to the Courts at Kumbakonam, the transfer petitions have been laid by the petitioner contending that she is unemployed and residing at Kumbakonam and depending upon her aged parents and finding it difficult and inconvenient in attending the proceedings at Thiruvannamalai Courts, considering the long distance between her residence and Thiruvannamalai Court and further stating that the respondent being a man of means would not be prejudiced, if the proceedings were transferred to Kumbakonam Court, accordingly, has come forward with the transfer petitions.

5.The respondent has resisted the transfer petitions preferred by the petitioner and contended that the petitioner on her own accord left the matrimonial house and living with her boy friends at Kumbakonam and not entitled to claim maintenance from the respondent and also not entitled to seek the transfer of the proceedings laid by the respondent to the Courts at Kumbakonam and further, according to him, the petitioner's father is a police officer and therefore, no prejudice would be caused to the petitioner in attending the proceedings at Thiruvannamalai Court and accordingly, prayed for the dismissal of the transfer petitions.

6.During the course of the arguments, the respondent's counsel put forth that a midway Court may be chosen by the Court for the convenience of both the parties and accordingly, suggested that all the proceedings may be transferred to the Court at Cuddalore or Chidambaram or Virudhachalam as the case may be. However, the petitioner's counsel contended that considering the inability of the petitioner in travelling alone

and also her need to look after her two school going children and also the threat that she may experience at the hands of the respondent in the event of travelling alone to the different Courts and the other inconvenience and hardship that she may be put to in defending the proceedings at Thiruvannamalai Court, accordingly, prayed for the transfer of the proceedings from Thiruvannamalai Court to Kumbakonam Court.

7.It is found that the children are residing with the petitioner and therefore, it could be seen that the petitioner would be required to look after the children. Now, the two proceedings laid by the respondent are pending on the file of the Courts at Thiruvannamalai. The distance between Kumbakonam and Thiruvannamalai is not on the lesser side and therefore, it is found that the petitioner may be put to inconvenience and hardship in attending the proceedings at Thiruvannamalai Court. Furthermore, even as per the case of the respondent, he is having independent means to conduct the proceedings, if the same were to be transferred to the Court at Kumbakonam as prayed for by the petitioner.

8.Materials placed on record also go to show that the proceedings had been taken at the Family Court, Ranga Reddy District, Hyderabad for divorce by mutual consent between the parties. However, the same did not fructify and with reference to the same, the parties are making allegations against each other. Be that as it may, it is seen that the parties are at different poles in their relationship to each other. That apart, it is also noted that the respondent had moved the High Court for seeking the transfer of the maintenance case from the file of the Kumbakonam Court to Thiruvannamalai Court in CrI.O.P.No.18578 of 2018 and the same is pending.

9.In all, considering the rival contentions projected by the parties with reference to their respective claims, it is seen that the respondent is having adequate means to conduct the proceedings at Kumbakonam Courts. On the other hand, the petitioner, being a lady and had to look after the two children, would find it difficult and inconvenient in attending the proceedings at Thiruvannamalai Courts and furthermore, it is also seen that seeking maintenance from the respondent, she had already levied the proceeding at Kumbakonam Court as abovenoted. In such view of the matter, it is seen that the respondent would be required to attend the abovesaid proceeding at Kumbakonam Court and in such view of the matter, if the proceedings laid by him at Thiruvannamalai Courts are also transferred to Kumbakonam Courts, by way of the same, it is found that no serious prejudice, as such, would be caused to the respondent. The respondent, though, has filed a counter in the present matter, has not put forth any apprehension to his body and life at the

hands of the petitioner, in any event of his proceedings being transferred to the Court at Kumbakonam.

10. Inasmuch as the various proceedings are pending in various forums between the parties and common issues are found to be involved in respect of the proceedings one way or the other, in my considered opinion, the consolidation of the proceedings and the determination of the same by one and the same Court would be beneficial to the parties, and by way of the same, conflict of decisions could be avoided. Furthermore, the parties also, if need be, would be required to adduce common evidence in all the proceedings. Thus, it is found that the cause of justice would be advanced, if all the proceedings are consolidated and determined by one and the same Court.

11. In the light of the above factors, HMOP No.63 of 2018 pending on the file of the Sub - Court, Thiruvannamalai and the GWOP No.5/2018 pending on the file of the District and Sessions Court, Thiruvannamalai are withdrawn and all the abovesaid proceedings are transferred to the file of the Additional District & Sessions Court, Kumbakonam for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous Petitions are allowed. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The District and Sessions Court, Thiruvannamalai.
2. The Additional District & Sessions Court, Kumbakonam.
3. The Chief Judicial Magistrate Court, Thanjavur at Kumbakonam.
4. The Sub - Court, Thiruvannamalai.

+1cc to Mr.S.Kasirajan, Advocate, S.R.No.69415
+1cc to Mr.C.Prakasam, Advocate, S.R.No.69975
+1cc to Mr.S.Kasirajan, Advocate, S.R.No.69414(12/12/2018)

Transfer CMP.Nos.679 & 594 of 2018

SKV(CO)
GSP(02/11/2018)



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