

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.10.2018

PRONOUNCED ON : 30.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.683 of 2018
and
CMP.No.16896 of 2018

R.Nagasoundarya ... Petitioner

Vs.

J.Madhan Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.722 of 2018 on the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.M.Aswin

For Respondent : Mr.K.S.Durai Pandian

ORDER

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

2. Seeking restitution of conjugal rights, the respondent has levied HMOP No.722 of 2018 against the petitioner and the same is pending on the file of the Family Court, Madurai.

3. Seeking transfer of the abovesaid proceeding to the Family Court, Chennai, the petitioner has come forward with the transfer petition on the footing that she is residing at Chennai and recently, she had given birth to a child and unable to travel to Madurai, as the distance between Chennai and Madurai being on the higher side and accordingly, she would also incur heavy expenses in attending the proceeding at Madurai Court and unable to carry her baby and as no prejudice would be caused to the respondent in conducting the proceeding at Chennai Court, accordingly, prayed for the transfer.

4. The respondent resisted the transfer request of the

petitioner on the footing that the transfer petition had been laid only to cause him harassment and inconvenience and the conduct of the proceeding at Madurai Court would not cause any prejudice to the petitioner as such and further, it is stated that, during the course of arguments, the respondent has sustained a road accident on 14.03.2018 and thereby, sustained injuries, and for the same, he had been taking treatment and had not yet recovered fully and in this connection, the discharge summary copy has been placed for consideration before the Court and accordingly, would contend that if the proceeding is transferred to Chennai Court, the respondent would be put to irreparable loss and hardship and accordingly, the counsel for the respondent submitted that in the event of the Court inclining to accept the transfer request of the petitioner, considering her difficulties, he also prayed that the respondent's inconvenience should also be taken into consideration by the Court and accordingly, suggested that a midway Court may be chosen by the Court and accordingly, requested to transfer the case to that Court for disposal, as the same would be convenient and beneficial to both the parties, likewise, he suggested that the proceeding may be transferred to the midway Court located either at Ariyalur or Perambalur Court for disposal as per law. To the same, the petitioner's counsel suggested that inasmuch as the petitioner would be finding it difficult to travel to the abovesaid Courts in the event of the transfer to the same, particularly, as she had given birth to a baby recently, accordingly, putforth the submission that the Court may be pleased to transfer the proceeding to Chennai Court and he also submitted that in the event of the Court considering it fit to transfer the proceeding to a midway Court, suggested that the Court at Villupuram may be identified as the forum for the conduct of the proceeding.

5.The submissions made by both the parties are taken into consideration. Both the parties have putforth certain inconvenience, difficulties and hardship in attending the proceeding. The petitioner has putforth certain inconvenience in attending the proceeding at Madurai Court considering the fact that the petitioner has given birth to a baby recently and also the distance between Chennai and Madurai being on the higher side and definitely, she would experience hardship in attending the proceeding at Madurai Court, it is thus seen that her transfer request should be considered sympathetically. Furthermore, it is also to be seen that the respondent has putforth certain inconvenience and hardship in attending the proceeding at Chennai Court as he had sustained injuries in a road accident recently and accordingly, the same should also be taken into consideration while considering the transfer request of the petitioner. Accordingly, in my considered opinion, the midway Court as suggested by the petitioner's counsel would be

ideal for the conduct of the proceeding and further, as by way of the same, no serious prejudice would be caused to either of the parties.

6.For the reasons aforestated, HMOP No.722 of 2018 is withdrawn from the file of the Family Court, Madurai and transferred to the file of the Family Court, Villupuram for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous petition is disposed of. Consequently, connected CMP.No.16896 of 2018 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sms

To

- 1.The Family Court, Madurai.
- 2.The Family Court, Villupuram.

+3cc to Mr.k.S.Durai Pandian, Advocate, S.R.No. 74091
+1cc to Mr.M.Aswin, Advocate, S.R.No. 74567

Transfer CMP.No.683 of 2018
and
CMP.No.16896 of 2018

VSNI (CO)
GN(22/11/2018)

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