

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.10.2018

PRONOUNCED ON : 29.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.690 of 2018

and

CMP.No.17088 of 2018

T.Aparna ... Petitioner

Vs.

K.A.Prithvi ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.117 of 2018 pending on the file of the Family Court, Erode and transfer the same to the Sub-Court, Pollachi and to be tried along with HMOP NO.159 of 2018 on the file of the Sub-Court, Pollachi.

For Petitioner : Mr.A.Sathish Kumar

For Respondent : Mr.I.C.Vasudevan

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.It is seen that the respondent has levied divorce case against the petitioner in HMOP No.117 of 2018 and the same is pending on the file of the Family Court, Erode. The petitioner has levied HMOP No.159 of 2018 for restitution of conjugal rights against the respondent and the same is pending on the file of the Sub-Court, Pollachi.

4.Seeking transfer of the respondent's proceeding from Erode Court to Pollachi Court, the present transfer petition has been laid by the petitioner on the footing that the distance between her residence and Pollachi Court is on the higher side and she is dependent upon her parents, who are unable to accompany her to Erode Court on account of their age and illness and she has to look after her child and therefore, prayed for the transfer.

5.The respondent's counsel contended that the transfer petition has been laid by the petitioner only with a view to cause inconvenience and hardship to the respondent and it is his contention that the petitioner is a resident of Udumalpet and not at Pollachi and giving her paternal uncle's address at

Pollachi, the petitioner has laid the proceeding at Pollachi Court and it is also stated that the petitioner's close relatives are advocates and therefore, if the transfer request is sought for by the petitioner is acceded to, the respondent would be put to great loss and hardship in attending the proceeding at Pollachi Court and therefore, submitted that in the event of Court inclined to accept the transfer request of the petitioner, the Court may transfer the proceeding to a midway Court, which would be convenient to both the parties and accordingly, prayed for the disposal of the matter.

6.Considering the materials placed on record, it is not clearly established by the petitioner as to whether she is residing at Udumalpet or Pollachi and it is found that she has taken inconsistent stand with reference to the same. Be that as it may, she has filed the OP for restitution of conjugal rights, which is pending on the file of the Court at Pollachi but the respondent has put forth certain inconvenience and hardship in attending the proceeding at Pollachi Court, particularly, alleging that the petitioner's close relatives are advocates and he would be seriously prejudiced in the conduct of the proceedings at Pollachi Court.

7.The petitioner has putforth certain inconvenience and hardship in attending the proceeding at Erode Court as stated in the petition, the same should also be taken into consideration while disposing of the matter.

8.In the light of the abovesaid factors, in my considered opinion, the conduct of the two proceedings in a Court situated midway would serve the interest of justice, and no serious prejudice as such would be caused to either of them.

9.For the reasons aforestated, HMOP No.117 of 2018 is withdrawn from the file of the Family Court, Erode and HMOP No.159 of 2018 is withdrawn from the file of the Sub-Court, Pollachi and both the proceedings are transferred to the file of the Principal Sub-Court, Thiruppur, for disposal as per law.

Accordingly, the Transfer Civil Miscellaneous petition is disposed of Consequently, connected CMP No.17088 of 2018 is closed.

29.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Family Court, Erode.
- 2.The Sub-Court, Pollachi.
- 3.The Principal Sub-Court, Thiruppur.

T.RAVINDRAN, J.

sms

Pre-delivery Order made
in Transfer CMP.No.690 of 2018
and
CMP.No.17088 of 2018

29.10.2018