

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.09.2018

PRONOUNCED ON : 26.09.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 691 of 2018

and

CMP.No.17089 of 2018

V.Kalpana ... Petitioner

Vs.

S.Sundar ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the O.P.No.2 of 2018 on the file of the Hon'ble Sub Court, Chengalpet and transfer the same to the file of Hon'ble Family Court, Chennai.

For Petitioner : Mr.J.Zeakumar

for M/s.Achari & Antoni

ORDER

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

2.The respondent has preferred O.P.No.2 of 2018 for nullity of marriage held between the parties and the same is pending on the file of the Sub-Court, Chengalpet.

3.Seeking the transfer of the abovesaid proceeding from Sub-Court, Chengalpet to the Family Court, Chennai, the petitioner has come forward with the transfer petition on the footing that she is a resident of Chennai and dependent upon her aged and sick parents and unable to travel to Chengalpet to defend the proceeding laid by the respondent and also would state that she is apprehending danger to her life and body and accordingly, prayed for the transfer.

4.Considering the nature of the proceeding pending before the Chengalpet Court, in my considered opinion, the presence of the petitioner is not required on all the hearing dates. The petitioner being represented by an able advocate, it is seen that her advocate would be able to attend the hearing dates of the proceeding during the absence of the petitioner as per the instructions received from the petitioner now and then. At the most, the petitioner's presence would be required only at the time of hearing date when her evidence is to be recorded in support of her version. In such view of the matter, the reasonings of the petitioner that she would be required to attend the proceeding at Chengalpet Court on all the hearing dates as such cannot be readily countenanced.

5.Further more, the petitioner being a resident of Chennai, the distance between the petitioner's

residence and Chengalpet is found to be not on the higher side. Thus, being the position, it is seen that the distance factor projected by the petitioner for seeking the transfer as such cannot be readily accepted.

6.As regards the apprehension put forth by the petitioner in attending the proceeding at Chengalpet Court that she may suffer bodily harm at the hands of the respondent, there is no material placed by the petitioner that till this point of time, the respondent has wielded any threat exposing danger to her life and body. If that be so, the petitioner would have initiated necessary legal action against the respondent and produced necessary materials to substantiate the same. Thus, it is noted that the abovesaid ground projected by the petitioner is only made for the purpose of seeking the transfer.

7.In the light of the above reasons, it is found that the petitioner has not made out a sufficient cause for accepting the transfer request putforth by her and the transfer petition laid by the petitioner is devoid of merits.

Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected CMP.No.17089 of 2018 is also dismissed.

26.09.2018

Index : Yes / No

Internet : Yes / No

sms

T.RAVINDRAN, J.

sms

To

- 1.The Sub Court, Chengalpet.
- 2.The Family Court, Chennai.

Pre-delivery Order made
in Transfer CMP.No. 691 of 2018
and
CMP.No.17089 of 2018

26.09.2018