

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.08.2018

PRONOUNCED ON : 29.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No. 154 of 2018

and

CMP.No.4212 of 2018

B.Devi ...Petitioner

Vs.

Muthukumar ...Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.401 of 2018 pending on the file of the II Additional Family Court at Chennai and Transfer the same to the file of the Subordinate Court at Thoothukkudi.

For Petitioner : Ms.S.Viji

For Respondent : Mr.R.Manickavel

ORDER

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

2.The marital life between the parties is not pleasant.

3.Based on the materials placed on record, it is found that the respondent has levied divorce proceeding against the petitioner in HMOP No.401 of 2018, which is pending on the file of the II Additional Family Court, Chennai. Thereafter, it is found that as could be seen from the affidavit, the petitioner has laid a petition for restitution of conjugal rights against the respondent in OP No.138 of 2018, which is pending on the file of the Subordinate Court at Thoothukkudi. The said fact is not, as such, controverted by the respondent.

4. Thus, it is found that two proceedings are pending in different forums as regards the marital issues involved between the parties. In such view of the matter, it is seen that common adjudication of the two proceedings by one and the same Court would be beneficial to both the parties. Further, by way of the same, conflict of decisions could be avoided.

5. The petitioner has expressed some inconvenience and hardship in attending the proceedings at Chennai Court. To the same, the respondent would contend that he is ready to bear the expenses that would be incurred by the petitioner in attending the Chennai Court and it is his contention that in connection with the same, he is ready to obey the directives of the apex Court as per the decision reported in CDJ 2017 SC 275 (Krishna Veni Nagam Vs. Harish Nagam). Considering the factual matrix and the residence of the petitioner at Thoothukkudi, it is seen that there is inconvenience and hardship to the petitioner in travelling to Chennai Court in attending the divorce proceeding, particularly, she would incur the expenses with reference to the same. Now, according to the respondent, he is ready to bear the expenses with reference to the same. When as seen from the records, it is found that the OP presented by the petitioner is pending on the file of the Thoothukkudi Court and as common issues are involved in both the proceedings, in the interest of justice, I am of the considered opinion that the two proceedings should be tried by one and the same Court. When it is found that the respondent is capable of meeting the expenses that may be incurred with by the petitioner in attending the Chennai Court, resultantly, it is found that the respondent would not be seriously prejudiced in attending the proceeding at Thoothukkudi Court. In any event, the respondent would be required to defend the proceeding laid by the petitioner in Thoothukkudi Court. Accordingly, it is found that the consolidation of two proceedings by one and the same Court would be beneficial to both the parties.

6. For the reasons aforesaid, considering the abovesaid facts and also the inconvenience and hardship that may be incurred to the petitioner and no prejudice would be caused to the respondent in attending the proceeding at Thoothukkudi Court, in all, the transfer request by the petitioner is found to be justified. Accordingly, HMOP No.401 of 2018 pending on the file of the II Additional Family Court at Chennai is withdrawn and transferred to the file of the Subordinate Court Thoothukkudi for joint trial along with OP.No.138 of 2018 as per law.

Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, connected CMP.No.4212 of 2018 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sms

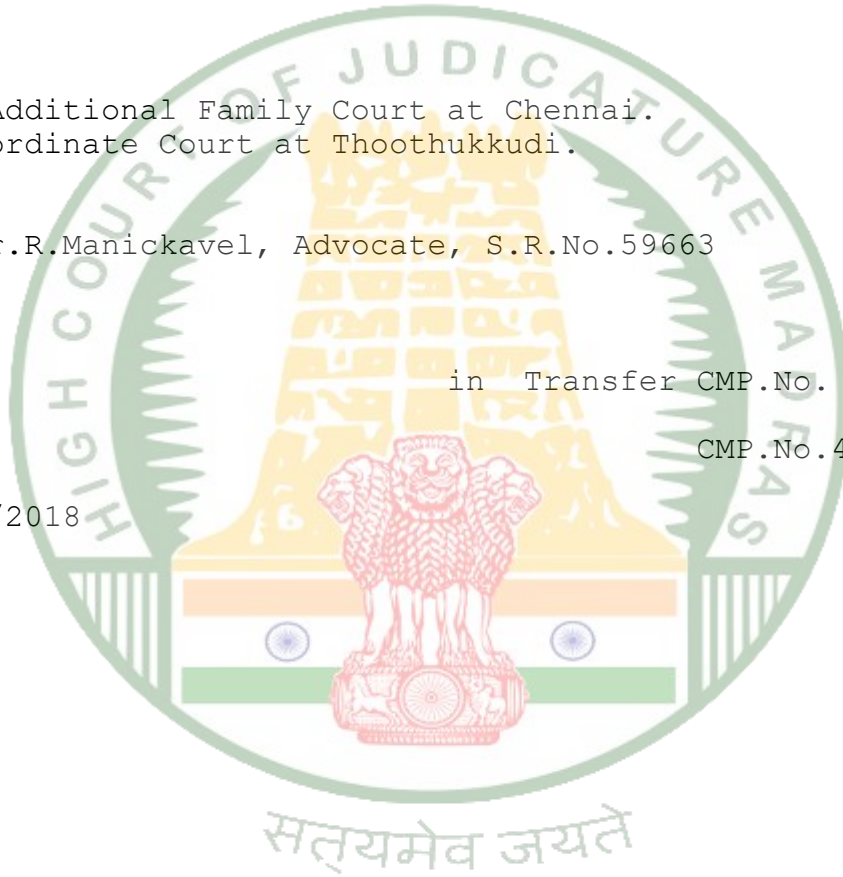
To

- 1.The II Additional Family Court at Chennai.
- 2.The Subordinate Court at Thoothukkudi.

+1cc to Mr.R.Manickavel, Advocate, S.R.No.59663

in Transfer CMP.No. 154 of 2018
and
CMP.No.4212 of 2018

rrs 14/09/2018



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