

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :20.09.2018

PRONOUNCED ON:25.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.1051 of 2017
and
C.M.P.No.21480 of 2017

T.Kalaivani

...Petitioner

Vs.

Manikandaprabhu

...Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the M.O.P.No.480 of 2014 on the file of Family Judge at Pondicherry and transfer to try along with F.C.O.P.No.3622 of 2017 on the file of the VI Additional Family Court, Chennai.

For Petitioner : Mr.G.Varghese

For Respondent : No appearance
Set exparte

Vide order dated 20.09.2018

ORDER

The petitioner is the wife. The respondent is the husband. All is not well qua the martial life of the petitioner and the respondent.

2.It is found that the petitioner has levied a divorce case against the respondent in F.C.O.P.No.3622 of 2017 and the same is pending on the file of the VI Additional Family Court, Chennai. As a counter blast, the respondent has levied

M.O.P.No.480 of 2017 for restitution of conjugal rights against the petitioner and the same is pending on the file of Family Court, Pondicherry. Seeking transfer of the proceeding from Pondicherry Court to Chennai Court for joint trial with the divorce proceeding laid by the petitioner, the present Transfer Miscellaneous Petition has come to be laid by the petitioner, for the reasons that, she is residing with her aged parents at Chennai and also pursuing higher studies and thereby experiencing difficulty and hardship in attending the litigation at Pondicherry Court and further according to her, inasmuch as the allied proceeding is pending on the file of Family Court, Chennai, it is her contention that the issues involved in both the proceedings are more or less one and the same and in such view of the matter also sought for the transfer.

3.Though the respondent had been served, he has not been evinced interest to resist the transfer request of the petitioner and accordingly, he having been called and remaining absent, been set exparte.

4.As regards the marital issues between the parties, two proceedings are pending in two different forums. Accordingly, as rightly put forth, common issues would be involved in both the proceedings with reference to their marital life. In such view of the matter, the consolidation of the two proceedings and the determination of the same, by one and the same court would be beneficial to both the parties and by way of the same, conflict of decision could also be avoided. Furthermore, by way of the joint trial of both the proceedings, the parties would be required to adduce common evidence in both the proceedings. Thus, it is found that the consolidation of the two proceedings by joint trial and determination of the same by one and the same Court would advance the interest of justice.

5.The petitioner has put forth certain inconvenience and difficulty in attending the proceeding at Pondicherry Court. The respondent has not contested the same by entering appearance in the present matter. Furthermore, by way of the same, it is seen that if the request of the petitioner to transfer the proceeding from Pondicherry Court to Chennai Court is accepted, the same would cause no prejudice to the respondent and accordingly, it is found that he has not shown any inclination to resist the transfer request of the petitioner.

6.For the reasons aforestated, M.O.P.No.480 of 2017 is withdrawn from the file of Family Court, Pondicherry and transferred to VI Additional Family Court, Chennai for joint trial along with F.C.O.P.No.3622 of 2017. Accordingly, the

Transfer Miscellaneous Petition is allowed. Consequently,
connected miscellaneous petition, if any is, closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

mfa

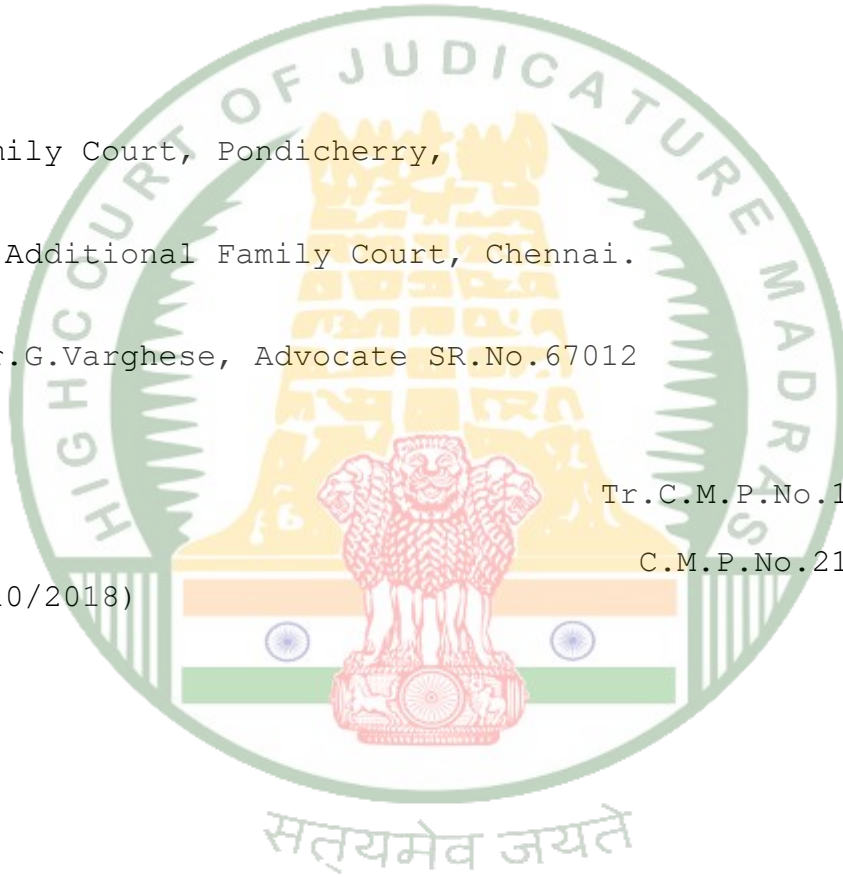
To

1. The Family Court, Pondicherry,
2. The VI Additional Family Court, Chennai.

+1cc to Mr.G.Varghese, Advocate SR.No.67012

GMV (10;]/10/2018)

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