

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.10.2018

PRONOUNCED ON : 22.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Transfer CMP.No.735 of 2018

and

CMP.No.17976 of 2018

Sumithra ... Petitioner

Vs.

Sundararaju ... Respondent

Prayer :- Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC to withdraw the HMOP No.23 of 2018 on the file of the Sub-Court, Sankari and transfer the same to the file of the Family Court, Erode.

For Petitioner : Mr.M.Mariappan

ORDER

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

2.The respondent has laid HMOP No.23 of 2018 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Sub-Court, Sankari.

3.Seeking transfer of the abovesaid proceeding to the Family Court, Erode, the transfer petition has been laid by the petitioner on the footing that the distance between her residence and Sankari Court is on the higher side and the petitioner finds it difficult in attending the proceeding at Sankari Court and also putforth that she has to look after her son and also apprehends danger to her life and body at the hands of the respondent in the event of travelling to attend the proceeding at Sankari Court and accordingly, prayed for the transfer.

4.Considering the nature of the proceeding pending on the file of the Sankari Court, it is seen that the petitioner's presence may be 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. Therefore, the reasonings of the petitioner that she is unable to attend the hearing dates at Sankari Court on account of the long distance between Sankari and Erode as such cannot be readily accepted.

5.Furthermore, even as per the case of the petitioner, the distance between Erode and Sankari Court is found to be around 40 kilometres. In such view of the matter, the distance between the

petitioner's residence and Sankari Court is found to be not on the higher side.

6.As regards the apprehension putforth by the petitioner at the hands of the respondent in attending the proceeding at Sankari Court, till date, there is no material projected on the part of the petitioner that the respondent had wielded any threat to her life and body at any point of time and accordingly, it is seen that the abovesaid reasons projected by the petitioner is only made for the purpose of the case.

7.Considering the above factors and when the distance factor alone is mainly projected by the petitioner for effecting the transfer and when the abovesaid reason is not acceptable and as above discussed, it is seen that the transfer request of the petitioner cannot be entertained.

Resultantly, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected CMP No.17976 of 2018 is also dismissed.

22.10.2018

Index : Yes / No

Internet : Yes / No

sms

To

- 1.The Sub-Court, Sankari.
- 2.The Family Court, Erode.

T.RAVINDRAN, J.

sms

Pre-delivery Order made  
in Transfer CMP.No.735 of 2018  
and  
CMP.No.17976 of 2018

22.10.2018