



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.(MD)No.104 of 2015

Sheeba Banu

... Petitioner/Defendant

-VS-

Bakeer Mohamed @ Mohamed Cithik

... Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw and transfer O.S.No.68 of 2014 on the file of the District Munsif Court, Uthamapalayam, Theni District and to transfer to the District Munsif cum Judicial Magistrate Court, Vadipatti.

For Petitioner : Mr.R.Lakshmanan

For Respondent : No appearance

ORDER

The petitioner is the wife. The respondent is the husband. It is seen that the respondent has levied O.S.No.68 of 2014 against the petitioner for dissolution of marriage and the same is pending on the file of the District Munsif Court, Uthamapalayam. Seeking transfer of the above said proceeding to the District Munsif cum Judicial Magistrate Court, Vadipatti, the present transfer petition has been laid by the petitioner on the footing that she is depending upon her aged parents and she being a pardahnashin lady, unable to attend the proceeding at Uthamapalayam Court and further she is also required to look after her two children and therefore, she is finding it difficult and experiencing hardship in attending the proceeding at Uthamapalayam Court. Further it is also pleaded by her that despite the maintenance order in her favour, the respondent has not paid any maintenance sum to her and in such view of the matter, if she is directed to attend the proceeding at Uthamapalayam Court, she would be further mulcted with costs and therefore, prayed for transfer.



2. In this matter, though the respondent is found to have been served, he has not shown interest to contest the transfer request put forth by the petitioner either by appearing in person or through Counsel and accordingly, the respondent being called, remained absent and he is set exparte.

3. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Uthamapalaym Court. It is also noted that the petitioner, seeking restitution of conjugal rights, has levied O.S.No.15 of 2015, which is pending on the file of the District Munsif cum Judicial Magistrate Court, Vadipatti. In such view of the matter, in my considered opinion, the above said two proceedings concerning marital issues between the parties should be consolidated and determined by one and the same Court and by way of the same, no serious prejudice would be caused to either of the parties and by way of the same, conflict of decisions could be avoided. Thus the interest of justice would be advanced if both the proceedings are consolidated and determined by one and the same Court.

4. As above noted, the petitioner has put forth certain inconvenience and hardship in attending the proceeding at Uthamapalayam and the same has not been controverted by the respondent and in such view of the matter, it is seen that the petitioner has made out acceptable cause for acceding to the transfer request put forth by her. That apart, the petitioner being a pardahnashin lady, her transfer request should be considered favourably, as she would be having difficulty in attending the proceeding at Uthamapalaym Court. In addition to that, the respondent would also be required to defend the proceeding of wife at Vadipatti Court laid by the petitioner and in such view of the matter, if the respondent's proceeding is transferred to Vadipatti Court, the respondent would not be seriously prejudiced.

5. For the reasons afore stated, O.S.No.68 of 2014 is withdrawn from the file of the District Munsif Court, Uthamapalayam, Theni District and transferred to the file of the District Munsif cum Judicial Magistrate Court, Vadipatti for disposal as per law. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs.

Sd/

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)



To:

1.The District Munsif Court, Uthamapalayam, Theni District.

2. The District Munsif cum Judicial Magistrate Court, Vadipatti.

+1 cc to Mr.R.Lakshmanan, Advocate, SR.No.96991

ssl

SS/RSK/SAR 4/19.12.2018/3P/4C

Tr.C.M.P. (MD) No.104 of 2015
27.11.2018