



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE T. RAVINDRAN

Tr.C.M.P. (MD) No.235 of 2017

and

C.M.P. (MD) No.5590 of 2017

Suganthi

... Petitioner

-VS-

Selvam

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw and transfer H.M.O.P.No.49 of 2017 pending on the file of the Subordinate Court at Pudukkottai to the Subordinate Court, Kumbakonam to be tried along with H.M.O.P.NO.72 of 2017 pending on the file of the Subordinate Court at Kumbakonam.

For Petitioner : Mr.M.R.S.Prabhu

For Respondent : Mr.P.Ganapathi Subramanian

O R D E R

Both Counsel are present and heard.

2. The petitioner is the wife and the respondent is the husband. All is not well *qua* the marital life of the parties. It is seen that the respondent has levied H.M.O.P.No.49 of 2017 for divorce and the same is pending on the file of the Subordinate Court, Pudukkottai. It is further seen that the petitioner has laid H.M.O.P.No.72 of 2017 for restitution of conjugal rights against the respondent and the same is pending on the file of the Subordinate Court, Kumbakonam. Seeking transfer of the respondent's proceeding to Kumbakonam Court from Pudukkottai Court, the present transfer petition has been laid by the petitioner/wife for the reason that she is residing with her aged parents and unable to attend the proceeding at Pudukkottai Court and further, she has also to maintain her son, who is studying in the first standard and considering the distance between Kumbakonam and Pudukkottai, being on the higher side, it is her case that she is finding it difficult and experiencing hardship in attending the proceeding at Pudukkottai Court and therefore prayed for transfer. Furthermore it is also her case that if she is directed to attend the proceeding at Pudukkottai Court, she would be put to monetary loss.

3. On the other hand, it is stated by the Counsel for the respondent that the transfer request has been made by the petitioner only with a view to cause inconvenience and hardship to the respondent and according to him, the continuance of the proceeding at Pudukkottai Court would not cause any prejudice to the petitioner.



4. As the two proceedings had been levied between the parties concerning the marital issues, in my considered opinion, the consolidation of two proceedings and the determination of the same by one and the same Court would be beneficial to both parties and by way of the same, conflict of decisions could be avoided and furthermore the parties would also be required to adduce common evidence in both matters. It is thus noted that the cause of justice would be advanced if both the proceedings laid by the parties are tried and determined by one and the same Court.

5. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Pudukkottai and the same cannot be easily discarded. Considering the age of the petitioner's parents, as they are unable to accompany her to Pudukkottai Court and also the necessity of the petitioner to look after her young son, it is seen that the petitioner has made out sufficient cause for acceding to the transfer request projected by her. Furthermore, as above noted, when the respondent would be required to defend the proceeding laid by the petitioner at Kumbakonam Court, and if the transfer request of the petitioner is acceded to, by way of the same it is seen that no prejudice would be caused to the respondent.

6. In the light of the above discussions, it is found that the petitioner has made out sufficient cause for acceding to the transfer request put forth by her. Resultantly, H.M.O.P.No.49 of 2017 is withdrawn from the file of the Subordinate Court, Pudukkottai and transferred to the file of the Subordinate Court, Kumbakonam for joint trial along with H.M.O.P.No.72 of 2017 as per law. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(ADI)

/True Copy/

Sub Assistant Registrar(CS-III)

To:

1. The Subordinate Court, Pudukkottai.

2. The Subordinate Court, Kumbakonam.

SSL

KM/BK/SAR3/19.12.2018/2P/3C

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