



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P. (MD) No.497 of 2017

and

C.M.P. (MD) No.10084 of 2017

S.Saranya ... Petitioner/Respondent
-vs-
Pandian ... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.148 of 2017 on the file of the Family Court, Sivagangai and to transfer the same to the Subordinate Court, Paramakudi so as to try along with H.M.O.P.No.92 of 2017 on the file of the Subordinate Court, Paramakudi.

For Petitioner: Mr.M.S.Jeyakarthik

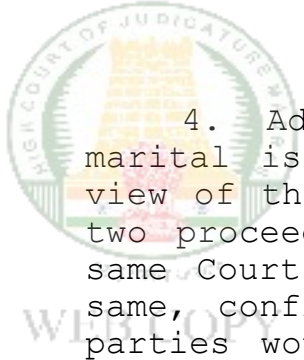
For Respondent : Mr.V.Perumal

O R D E R

The petitioner is the wife. The respondent is the husband. All is not well *qua* the marital life of the parties concerned. It is seen that petitioner has laid a divorce case in H.M.O.P.No.92 of 2017 and the same is pending on the file of the Subordinate Court, Paramakudi. It is further noted that the respondent has laid H.M.O.P.No.148 of 2017 for restitution of conjugal rights against the petitioner and the same is pending on the file of the Family Court, Sivagangai.

2. Seeking transfer of the respondent's proceeding to Paramakudi Court, the petitioner has come forward with the transfer request on the footing that she is totally depending upon her parents for her livelihood and hails from a poor family and considering the distance between Paramakudi and Sivagangai being on higher side, she is unable to attend the proceeding at Sivagangai Court and furthermore she apprehends danger to her life and body at the hands of the respondent in the event of her attending the proceeding at Sivagangai Court and thereby sought for the transfer.

3. Per contra, it is the contention of the respondent that the continuance of the proceeding at Sivagangai Court would not cause any prejudice to the petitioner and further put forth that in the event of this Court inclining to accede to the transfer request put forth by the petitioner, he prayed for the transfer of both the proceedings to the Subordinate Court, Ramanathapuram for disposal as per law and by way of the same, no serious prejudice would be caused to either of the parties and accordingly prayed for appropriate orders.



4. Admittedly two proceedings are pending concerning the marital issues between the parties in different Forums. In such view of the matter, 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. Thus it is noted that the cause of justice would be advanced if both proceedings 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 Sivagangai Court and the same cannot be easily discarded. It is seen that the petitioner hails from a poor family and unable to maintain herself. In such view of the matter, if she is directed to attend the proceeding at Sivagangai Court, she would be further put to loss and inconvenience.

6. Both parties apprehend danger to their life and body in the event of attending their proceeding at Sivagangai Court or Paramakudi Court as the case may be. However with reference to the above said claim of the parties, there is no acceptable and reasonable material put forth. In such view of the matter, as regards the above said cause projected by both parties, it is seen that the parties have to take action against other party as per law in the event of sustaining any harm at the hands of the other party.

7. The wife's proceeding is pending on the file of the Subordinate Court, Paramakudi. In such view of the matter, it is seen that the husband would be required to defend the above proceeding at Paramakudi Court. In such view of the matter, if the respondent's proceeding is transferred to Paramakudi Court, no serious prejudice would be caused to him. Furthermore the respondent/husband being an employed person by way of conducting the proceeding at Paramakudi Court, it is seen that no serious prejudice would be caused to the respondent. For the aforesaid reasons, it is seen that the petitioner has made out a sufficient cause for acceding to the transfer request put forth by her.

8. Resultantly, H.M.O.P.No.148 of 2017 is withdrawn from the file of the Family Court, Sivagangai and transferred to the file of the Subordinate Court, Paramakudi for joint trial along with H.M.O.P.No.92 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(T&P)



To:

1. The Family Court, Sivagangai.
2. The Subordinate Court, Paramakudi.

+1cc to Mr.M.S.Jeyakarthik ,Advocate Sr.No.99032

+1cc to Mr.V.Perumal,Advocate Sr.No.98786

SSL

KM/SV/SAR1/26.12.2018/3P/5C

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