

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.03.2019

PRONOUNCED ON : 27.03.2019

CORAM:

THE HON'BLE MR.JUSTICE **T.RAVINDRAN**

Rev.Appl.Nos.273 & 277 of 2018

Mrs.N.Lakshmi

.... Petitioner
in both petitions

Vs.

Mr.D.Chandrasekarn

... Respondent
in both petitions

Prayer in Rev.Appl.No.273 of 2018: Review Application filed under Section 114 of CPC, against the order dated 16.08.2018 in Tr.C.M.P.No.578 of 2018.

Prayer in Rev.Appl.No.273 of 2018: Review Application filed under Section 114 of CPC, against the order dated 20.08.2018 in Tr.C.M.P.No.575 of 2018.

For Petitioner
in both petitions : C.Sivanesan

COMMON ORDER

Rev.Appl.No.273 of 2018 is directed to review the order passed by this Court dated 16.08.2018 in Tr.C.M.P.No.578 of 2018. Rev.Appl.No.277 of 2018 is directed to review the order passed by this Court dated 20.08.2018 in Tr.C.M.P.No.575 of 2018.

2. Tr.C.M.P.No.578 of 2018 has been preferred by the petitioner/review petitioner for the withdrawal of G.W.O.P.No.1 of 2015 laid by her from the file of the District Judge, Family Court, Chengalpet and transfer the same to the Family Court, Trichirapalli, for disposal, as per law. Tr.C.M.P.No.575 of 2018 has been preferred by the petitioner/review petitioner seeking the withdrawal of H.M.O.P.No.196 of 2015 laid by her against the respondent for dissolution of marriage on the ground of cruelty from the file of the District Judge, Family Court, Chengalpet and transfer the same to the Family Court, Trichirapalli, for disposal as per law.

3. The marital life between the petitioner and her husband, the respondent is not cordial. The respondent has laid H.M.O.P.No.83 of 2018 against the petitioner for restitution of conjugal rights and the same is pending in the file of the Family Court, Chengalpet. It is

further seen that the petitioner has filed H.M.O.P.No.196 of 2015 against the respondent for dissolution of marriage on the ground of cruelty and the said proceeding is also pending in the Family Court, Chengalpet. It is further seen that the petitioner has laid G.W.O.P.No.1 of 2015 against the respondent for the permanent custody of her two minor children and the same is found to be pending on the file of the Family Court, Chengalpet.

4. Seeking transfer of the abovesaid proceedings from the file of the Family Court, Chengalpet to the file of the Family Court, Trichirapalli, the petitioner has filed transfer C.M.Ps. on the footing, inasmuch as her parents are residing at Trichirapalli and considering the distance between Chengalpet and Trichirapalli, being on higher side and accordingly, contended if the abovesaid proceedings are conducted at Trichirapalli Court, the same would be beneficial to her parents as they would be in a position to engage an able lawyer to conduct the proceedings involved between the parties and thereby sought for the transfer.

5. This Court considered the submissions put forth by the petitioner and noting that the two proceedings having been laid by the

petitioner namely H.M.O.P.No.196 of 2015 and G.W.O.P.No.1 of 2015 against the respondent in the Family Court, Chengalpet, thereafter, cannot be allowed to seek the transfer the abovesaid proceedings to the Family Court, Trichirapalli, as prayed for, on the sole reason that her parents would be in a position to engage a better advocate in Trichirapalli in conducting/defending the abovesaid proceedings and furthermore, noting in particular that the petitioner having moved to USA along with her children and also further noting that the presence of the petitioner may not be required in the proceedings before the Family Court, Chengalpet, on all the hearing dates and further noting that the petitioner had engaged an able lawyer for conducting/defending the abovesaid proceedings involved between the parties, on that reasonings held that the petitioner could very well conduct/defend the abovesaid proceedings through her lawyer by giving instructions now and then and her presence would be required only on the hearing dates when her evidence is required to be recorded in support of her case, accordingly, this Court did not find acceptance with the case of the petitioner in seeking the transfer of proceedings from the Family Court, Chengalpet to the Family Court, Trichirapalli and resultantly, dismissed the transfer civil miscellaneous petitions, preferred by the petitioner.

6. Seeking to review the abovesaid orders passed in Tr.C.M.P.Nos.573 & 577 of 2018, the present review applications have come to be laid.

7. The counsel for the petitioner again put forth the same contentions in the review applications as alleged by him earlier in the transfer civil miscellaneous petitions and contended that the relative hardship caused to the petitioner in the conduct of the proceedings in the Family Court, Chengalpet, is on the higher side and accordingly, prayed the Court to reconsider the orders passed by it while dismissing the transfer civil miscellaneous petitions. Only when the orders under review are found to be suffering from any defect or mistake apparent on the fact of the record, the review of the said orders could be legally sustained. On the other hand when by way of the abovesaid orders, this Court, after taking into consideration the relative hardship caused to both the parties involved in the matter and finding that the petitioner and her children had settled or put up at America and their presence are not required on all the hearing dates in the abovesaid proceedings and when they are already being represented by an able advocate nominated by them and the proceedings could be conducted by her through her counsel by issuing necessary instructions now and

then, in that context, determined that the reasonings projected by the petitioner for transfer are not acceptable. As abovenoted, the only reason put forth by the petitioner for seeking the transfer is that inasmuch as her parents are residing at Trichirapalli, it was contended that if the proceedings are transferred to the Family Court, Trichirapalli, her parents would be in a position to nominate an efficient counsel for her to conduct/defend the matters. On that sole ground alone, she had come forward with the transfer request. However, when of the three proceedings involved in the matter, the two proceedings had been instituted only by the petitioner in the Family Court, Chengalpet, through her Advocate, in such view of the matter, to say that the proceedings should be subsequently transferred to Family Court, Trichirapalli, for enabling her parents to nominate some other advocate to conduct the proceedings laid by her or defend the proceeding laid by the respondent efficiently as such cannot be accepted. When it has been noted that the petitioner herself from abroad would be in a position to give suitable instructions to her advocate to conduct/defend the proceedings involved between the parties, in such view of the matter, this court has held that the transfer request of the petitioner is devoid of merits and unacceptable and accordingly, dismissed the applications. Accordingly, the relative

hardship/inconvenience of both the parties had been assessed by this court, already taken into consideration the various factors involved and had chosen to dismiss the transfer civil miscellaneous petitions laid by the petitioner.

8. When the abovesaid orders sought to be reviewed, do not suffer from any apparent error or mistake on the face of the record and furthermore, the petitioner having also not projected any other sufficient cause for reviewing the abovesaid orders and when it is found that the petitioner by way of review applications is only seeking or endeavouring a fresh hearing on the points already canvassed by her before this Court and determined by this Court, which cannot be allowed as per law and in such view of the matter, following the principles of law outlined by the Apex Court in the decision reported in **2013 (8) SCC 320, KAMLESH VERMA Vs. MAYAWATHI & OTHERS**, I am unable to countenance the review applications laid by the petitioner.

In conclusion, both the review applications are dismissed.

27.03.2019

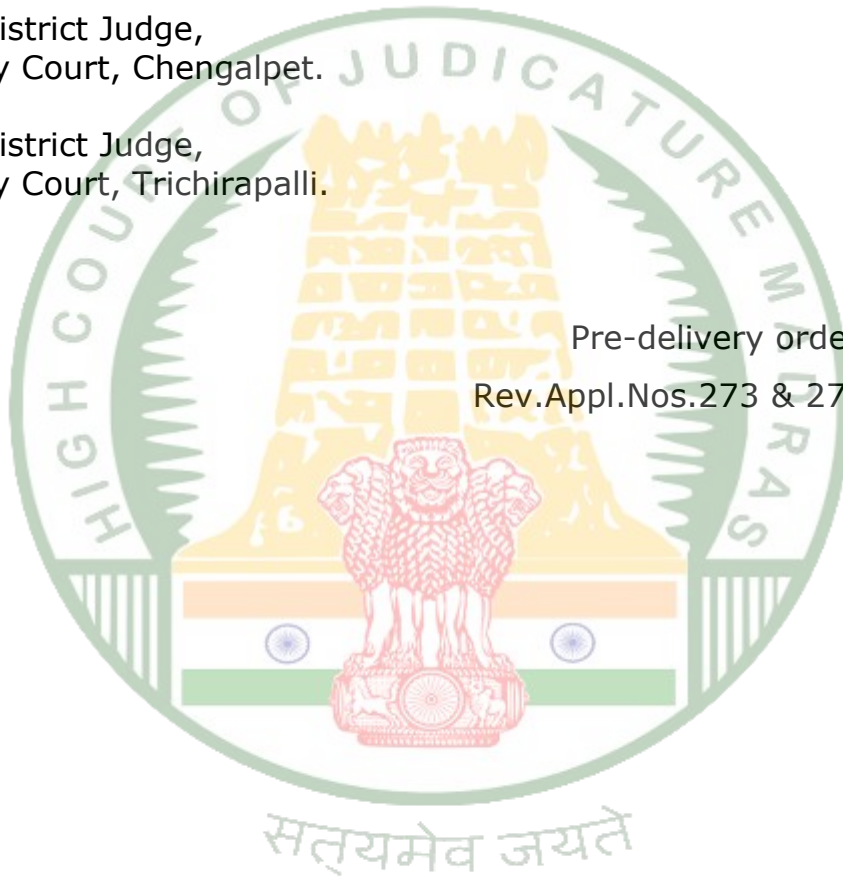
Index:yes/No
Speaking/Non-speaking order
nsd

T.RAVINDRAN, J.

nsd

To

1. The District Judge,
Family Court, Chengalpet.
2. The District Judge,
Family Court, Trichirapalli.



Pre-delivery order made in
Rev.Appl.Nos.273 & 277 of 2018

27.03.2019

WEB COPY