

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2015

CORAM

THE HONOURABLE THIRU JUSTICE D.HARIPARANTHAMAN

Tr.C.M.P.No.287 of 2015 &
M.P.No.1 of 2015

S.Kirthika

... Petitioner

v.

K.Selvaraju

... Respondent

Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP No.90 of 2014 on the file of the Subordinate Court, Attur and to transfer the same to the Subordinate Court, Kallakurichi.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Mr.V.R.Kamalanathan

O R D E R

The petitioner is the wife of the respondent. The respondent filed H.M.O.P.No.90 of 2014 on the file of Sub-Court, Attur for restitution of conjugal rights.

2. The petitioner has filed the above Transfer C.M.P. to withdraw H.M.O.P.No.90 of 2014 from the file of Sub-Court, Attur and to transfer the same to the file of Sub-Court, Kallakurichi.

3. The respondent filed counter affidavit refuting the allegations.

4. Heard both sides.

5. While the learned counsel for the petitioner seeks to transfer the case from Sub-Court, Attur to Sub-Court, Kallakurichi, placing reliance on Section 19 (iii-a) of the Hindu Marriage Act, the learned counsel for the respondent has strenuously contended that the father of the petitioner is a practising Advocate at Kallakurichi and former President of Kallakurichi Bar Association and hence, HMOP cannot be transferred to Kallakurichi.

6. I am not in agreement with the submission made by the learned counsel for the respondent. Just because the father of the petitioner is an Advocate and former President of the Kallakurichi Bar Association, the same cannot come in the way of invoking Section 19(iii-a) of the Hindu Marriage Act.

7. In view of well settled law that in matrimonial disputes, preference should be given to the wife in the place of hearing and taking note of section 19(iii-a) of the Hindu Marriage Act, H.M.O.P. may be tried at the place where the wife resides.

8. In these circumstances, I direct for withdrawal of H.M.O.P.No.90 of 2014 from the file of Sub-Court, Attur and transfer the same to the file of Sub-Court, Kallakurichi.

The Transfer C.M.P is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

svki

To

1. The Sub-Judge, Attur

2. The Sub-Judge, Kallakurichi

1 cc to Mr. .P.Jagadeesan, Advocate Sr.No.49080

Tr.C.M.P.No.287 of 2015

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pmk.24.9.2015

सत्यमेव जयते

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