

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2016

CORAM

THE HON'BLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.530 of 2014
and
M.P.No.1 of 2014

Meenakshi

... Petitioner

vs.

Raja

.... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the HMOP No.36 of 2014 pending on the file of the Principal Sub Court, Mayiladuthurai and to transfer the same to the file of Sub Court, Chidambaram to be tried along with HMOP No.26 of 2014.

For petitioner : Mr.S.Sounthar

For respondent : Served- No appearance

O R D E R

The present transfer petition has been filed by the petitioner / wife against the respondent / husband for transfer of HMOP No.36 of 2014 pending on the file of the Principal Sub Court, Mayiladuthurai to the file of Sub Court, Chidambaram to be tried along with HMOP No.26 of 2014.

2. Admittedly, the respondent/husband has filed HMOP No.36 of 2014 before the Principal Sub Court, Mayiladuthurai against the petitioner/wife under Section 9 of the Hindu Marriage Act, 1955 seeking restitution of conjugal rights, whereas the petitioner/wife has filed HMOP No.26 of 2014 before the Sub Court, Chidambaram under Section 13 of the Act.

3. Heard the learned counsel for the petitioner and despite notice being served, the respondent did not appear either in person or through the counsel.

4. In para Nos.4 and 5 of the affidavit in support of the petition for transfer, it is stated that the respondent/husband has filed the above petition before the Principal Sub Court, Mayiladuthurai only as a counter blast to her petition filed before the Sub Court, Chidambaram. She has further stated that she is staying with her parents at Chidambaram along with two minor children and therefore, it would be difficult for her to go to the Principal Sub Court at Mayiladuthurai for each and every hearing. It is also further stated if the petitions filed both by the petitioner and the respondent are tried in two different courts, it will result in multiplicity of proceedings and only to avoid conflict of decisions, the present petition has been filed seeking transfer.

5. Considering the facts and circumstances of the case and also taking into account the fact that the respondent/husband has not appeared before this Court, the HMOP No.36 of 2014 filed by the respondent/husband before the Principal Sub Court, Mayiladuthurai is withdrawn and is transferred to the file of the Sub Court, Chidambaram to be tried along with HMOP No.26 of 2014 filed by the petitioner/wife. The Principal Sub Court, Mayiladuthurai is directed to transmit all the papers pertaining to HMOP No.36 of 2014 immediately to the Sub Court, Chidambaram , after receipt of a copy of this order.

6. The transfer petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

vj2
To

Sub Assistant Registrar

1. The Principal Subordinate Judge, Mayiladuthurai
2. The Subordinate Judge, Chidambaram.

+1cc to Mr.Sounthar, Advocate, S.R.No.74972.

PK(CO)
RS(19/01/2017)

Tr.C.M.P.No.530 of 2014