

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.275 of 2014
and M.P.No.1 of 2014

Ponni

.. Petitioner

-Vs-

S. Poovaraja

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.162 of 2012 pending on the file of the Subordinate Judge, Kumbakkonam and to transfer the same to the III Additional Family Court, Chennai and tried along with O.P.No.4712 of 2013.

For petitioner ... Mr.N.R. Rajagopalan

For Respondent ... Served-No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw H.M.O.P.No.162 of 2012 filed by the husband pending on the file of the Subordinate Court, Kumbakkonam and to transfer the same to the file of the III Additional Family Court, Chennai to be tried along with O.P.No.4712 of 2013 filed by the wife.

2. H.M.O.P.No. 162 of 2012 is filed by the respondent-husband on the file of the Subordinate Court, Kumbakkonam for dissolution of marriage held between the petitioner and the respondent on 22.08.2010. The petitioner-wife also filed O.P.No.4712 of 2013 for restitution of conjugal rights before the III Additional Family Court, Chennai

3. It is the grievance of the petitioner that she is now living with her parents at Chennai without any financial support. It is stated that she has to travel 300 kms from Chennai to Kumbakonam for hearing of the case. Further, she could not travel alone to Kumbakonam to attend the hearings because her parents are very old. She is also unable to spend money for travel, staying room and other costs. She is not in a position to bear the same as she is wholly dependant on her parents for her livelihood. It is also stated that the wife

has filed a maintenance case in M.C.No.131 of 2016 on the file of the III Additional Family Court, Chennai. Hence, she seeks transfer of the case from Kumbakonam to Chennai.

4. Heard the learned counsel for the petitioner. Though the respondent had been served with notice and his name having been printed in the cause list, there is no representation for the respondent either in person or through counsel.

5. It is stated that the respondent/husband is living in Germany. Hence, his presence before the Court below is dispensed with till the commencement of the trial.

6. Taking into consideration the above grievances expressed by the petitioner and that Section 19 (iii-a) of the Hindu Marriage Act gives preference for the wife to file a petition before the jurisdictional Court where she resides either independently or along with her parents, brother, sister or relatives as the case may be, this Court deems it fit to transfer the said H.M.O.P.No.162 of 2012 pending on the file of the Subordinate Judge, Kumbakonam.

7. Accordingly, Tr.C.M.P is allowed and H.M.O.P.No.162 of 2012 pending on the file of the Subordinate Court, Kumbakonam shall stand withdrawn and same is transferred to the file of the III Additional Family Court, Chennai to be tried along with O.P.No.4712 of 2013 and M.C.No.131 of 2016. No costs. Consequently, connected miscellaneous petition is closed.

sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

srn/rpl

To

1. The Subordinate Judge, Kumbakonam
2. The III Additional Family Court, Chennai

ks(co)
EGR 28/10/2017

Tr.C.M.P.No.275 of 2014
and M.P.No.1 of 2014