

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.505 of 2014
and M.P.No.1 of 2014

A. Manimegalai ... Petitioner

vs.

P. Arumugam Respondent

Prayer: The Transfer Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the H.M.O.P.No.57 of 2014 on the file of Sub Court, Palani, Dindugal District and transfer the same to the I Additional Family Court, Chennai to be tried along with H.M.O.P.No.2744 of 2014.

For Petitioner : Mr.C.T.Mohan
For Respondent : Sd-No appearance

O R D E R

The petitioner/wife in a matrimonial dispute has filed above Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.57 of 2014, pending on the file of Sub Court, Palani and transfer the same to the file of I Additional Family Court, Chennai to be tried along with H.M.O.P.No.2744 of 2014 on the file of I Additional Family Court, Chennai.

2. The respondent/husband has filed the above H.M.O.P.No.57 of 2014 under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, before the Sub Judge at Palani for dissolution of marriage held between the petitioner and the respondent on 12.12.2011. The wife has also filed a petition in H.M.O.P.No.2744 of 2014 under Section 9 of the Hindu Marriage Act, before the I Additional Judge, Family Court, Chennai for restitution of conjugal rights.

3. It is stated in the affidavit that both the petitioner as well as the respondent living in Chennai, however, the respondent/husband has preferred H.M.O.P.No.57 of 2014 for divorce before Sub Court, Palani. It is also stated by the learned counsel for the petitioner that H.M.O.P.No.2744 of 2014 was decreed in favour of the wife by judgment dated 28.05.2016. Now, only the other petition in H.M.O.P.No.57 of 2014 filed by the husband on the file of Sub Court, Palani, is pending. Besides, the petitioner/wife has expressed difficulty

to travel to Palani as she has to travel about 500 kilometres from Chennai to Sub Court, Palani for each hearing. Hence, she sought for the above transfer.

4. Heard the learned counsel for the petitioner. Though the respondent/husband served with the notice, he has not cared to represent either in person or through counsel.

5. Considering the convenience of the wife who is living in Chennai and in view of the fact that the husband is also living in Chennai, it would be appropriate to transfer H.M.O.P.No.57 of 2014 to any of the Family Courts in Chennai.

6. Considering the grievances stated in the affidavit and also Section 19(iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.57 of 2014 from the file of Sub Court, Palani to any of the Family Courts in Chennai.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.57 of 2014, pending on the file of Sub Court, Palani shall stand withdrawn and transferred to any of the Family Courts in Chennai. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Judge,
Palani.

2. The Judge,
Family Court, Chennai.

+ 1 cc to MR. C. T. Mohan, Advocate SR.75221

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SV(CO)
EU(06/12/2017)