

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.187 of 2017
and C.M.P.No.3448 of 2017

K. Revathi ... Petitioner

V. Wilson Kumar @ Kumaran ... Respondent

Prayer: This transfer petition has been filed under Section 24 of C.P.C. praying to withdraw the case in O.P.No.83 of 2017 pending before the III Additional Family Court, Chennai and the same be transferred to the Sessions Judge, Fast Track Mahila Court, Thiruvannamalai for joint trial with the case in I.D.O.P.No.39 of 2016 pending on the file of the Sessions Judge, Fast Track Mahila Court, Thiruvannamalai.

For Petitioner : Mr.V.R.Appaswamee

For Respondent : Ms.M.Roselet Helen

O R D E R

The petitioner/wife in a matrimonial dispute has filed this Transfer Civil Miscellaneous Petition, seeking transfer of H.M.O.P.No.83 of 2017, pending on the file of III Additional Family Court, Chennai to the file of Sessions Judge, Fast Track Mahila Court, Thiruvannamalai to be tried along with I.D.O.P.No.39 of 2016 which is already pending.

2. The respondent/husband has filed O.P.No.83 of 2017 under Section 32 of the Indian Divorce Act, before III Additional Family Court, Chennai, for restitution of conjugal rights, whereas, the wife has filed O.P.No.39 of 2016 under Section 10 of the Indian Divorce Act, now pending on the file of Fast Track Mahila Court, Thiruvannamalai for divorce and to declare the marriage solemnized between the petitioner and the respondent as null and void.

3. In paragraphs 8 and 9 of the affidavit, the petitioner has stated that it is difficult for her to travel to Chennai for each hearing as the matter is pending before the Family Court, where the presence of the parties is mandatory. She has also stated that she is living with her aged parents and has got no independent income on her own and it would be difficult for her to get financial support.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. Considering Section 19(iii-a) of Hindu Marriage Act, which gives preference for the convenience of the wife and also satisfied with the reasons given by the petitioner in the affidavit, this Court is inclined to transfer H.M.O.P.No.83 of 2017 from III Additional Fast Track Court, Chennai.

6. The learned counsel appearing for the respondent has vehemently opposed the said transfer stating that there is a threat to the life of the respondent, whenever he goes to Thiruvannamalai. There is absolutely no material produced or even a counter affidavit filed to substantiate the same. The Court where the wife filed O.P. for divorce being Fast Track Mahila Court, the presence of the parties is not mandatory till the time of trial or otherwise warranted. Hence, this Court is inclined to withdraw O.P.No.83 of 2017 from the file of III Additional Family Court, Chennai and transfer the same to Sessions Judge, Fast Track Mahila Court, Thiruvannamalai to be tried along with I.D.O.P.No.39 of 2016 already pending on the file of said Court.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed by withdrawing O.P.No.83 of 2017 from the file of III Additional Family Court, Chennai and transferring the same to the file of Sessions Judge, Fast Track Mahila Court, Thiruvannamalai to be tried along with I.D.O.P.No.39 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(C-IV)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The III Additional Judge,
Family Court, Chennai.

2. The Sessions Judge,
Fast Track Mahila Court,
Thiruvannamalai.

+ 1 cc to MR. V.R. Appaswamee, Advocate SR.79475

+ 1 cc to Ms. K. Akhilandeswari, Advocate SR.79718

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CS-IV

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EU (07/12/2017)