

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.188 of 2017
and C.M.P.No.3449 of 2017

M.A. Syed Ali Fathima ... Petitioner
vs.
M.K.A. Basha ... Respondent

Prayer: The petition has been filed under Section 24 of C.P.C. praying to withdraw the O.S.No.141 of 2016 on the file of Sub Court, Cheyyar, Thiruvannamalai District and transfer the same to Sub Court, Tambaram, Chennai.

For Petitioner : Mr.S.Nambirajan
For Respondent : Mr.C.Munusamy

O R D E R

The petitioner herein has filed this Transfer Civil Miscellaneous Petition, seeking transfer of O.S.No.141 of 2016, pending on the file of Sub Court, Cheyyar to the file of Sub Court, Tambaram.

2. The petitioner/wife, who is a muslim women, has filed a petition in D.V.A.No.44 of 2016 under Domestic Violence Act, 2005, before the Judicial Magistrate, Tambaram, Chennai. The husband has filed a petition in O.S.No.141 of 2016 under Order 7 Rule 1 to 6 of CPC and Section 281 of Mohammedan Law, before the Sub Judge, Cheyyar, for restitution of conjugal rights.

3. It is stated that the wife is raising her two children born out of the wedlock and it is difficult for her to travel to Sub Court, Cheyyar, to attend the hearings in O.S.No.141 of 2016. The wife has also expressed apprehension that travelling to Cheyyar would be risky for her. In paragraph 18 of the affidavit, it is stated that the children are studying in a school at Tambaram. Stating the above reasons, the wife has sought for transfer of O.S.No.141 of 2016 from the file of Sub Court, Cheyyar to Sub Court, Tambaram. The husband also seems to have filed Crl.O.P.No.6224 of 2017 to quash the case in D.V.A.No.44 of 2016, which is stated to be pending before this Court.

4. As the transfer is sought only to Sub Court, Tambaram, the appearance of the parties is not mandatory and the advocate engaged may take care of the case. Only after the

trial is commenced, the parties have to come. Therefore, the argument that the husband has to travel to Tambaram for each hearing is also not sustainable. Hence, this Court is of the view that O.S.No.141 of 2016 filed by the husband may be transferred to Sub Court, Tambaram.

5. Accordingly, considering the convenience of the wife, the Transfer Civil Miscellaneous Petition is allowed by withdrawing O.S.No.141 of 2016 from the file of Sub Court, Cheyyar and transferring the same to the file of Sub Court, Tambaram. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

rsi
To

1. The Sub Judge,
Cheyyar.
2. The Sub Judge,
Tambaram.

+ 1 cc to MR. Nambirajan, Advocate Sr.79389
+ 1 cc to Mr. C. Munsamy, Advocate Sr.79395

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CS-V
EU(07/12/2017)

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