

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 23.11.2017  
CORAM :  
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA  
Tr.C.M.P. No.286 of 2017  
and C.M.P.No.5441 of 2017

S. Kalaimani

... Petitioner

Vs.

V. Silambarasan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the proceedings in M.O.P.No.52 of 2016 on the file of the Family Court, Karaikal and transfer the same to Principal Sub Judge, Mayiladuthurai.

For Petitioner : Mr.R.Shivakumar  
for M/s.K.M.Vijayan Associates

For Respondent : No appearance

O R D E R

The petitioner/wife has filed this transfer Civil Miscellaneous Petition seeking to withdraw M.O.P.No.52 of 2016, pending on the file of Family Court, Karaikal and transfer the same to the file of Principal Sub Court, Mayiladuthurai.

2. The respondent/husband has filed M.O.P.No.52 of 2016 under Section 9 of Hindu Marriage Act, before the Family Judge, Karaikal, for restitution of conjugal rights. Earlier, the petitioner/wife has filed H.M.O.P.No.31 of 2017 under Section 13 (1)(i-a) of the Hindu Marriage Act, before the Principal Sub Judge, Mayiladuthurai for dissolution of marriage held between the petitioner and the respondent on 08.03.2015.

3. The petitioner seeking transfer of M.O.P.No.52 of 2016 from the file of Family Court, Karaikal to the file Principal Sub Court, Mayiladuthurai to be tried along with H.M.O.P.No.31 of 2017, which is also pending. She has also expressed her grievances in the affidavit filed in support of the petition.

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

5. As the O.P. filed by the respondent/husband is for restitution of conjugal rights and the O.P. filed by the petitioner/wife is for divorce, in order to avoid any conflict in decision, it would be appropriate to direct joint trial of both the cases.

6. Considering Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, convenience of the wife is paramount while deciding the transfer petition in matrimonial matter. Being satisfied with the reasons stated in the affidavit, this Court is inclined to transfer M.O.P.No.52 of 2016 pending on the file of Family Court, Karaikal to the file of Principal Sub Court, Mayiladuthurai, to be tried along with H.M.O.P.No.31 of 2017.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and M.O.P.No.52 of 2016 pending on the file of Family Court, Karaikal shall stand withdrawn and transferred the same to the file of Principal Sub Court, Mayiladuthurai, to be tried along with H.M.O.P.No.31 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Judge,  
Family Court, Karaikal.

2. The Principal Sub Judge,  
Mayiladuthurai.

+1 cc to Mr.K.M.Vijayan Associates sr 83357

Tr.C.M.P. No.286 of 2017  
and C.M.P.No.5441 of 2017

vgII(co)  
aa13/12/2017