

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.29 of 2017

and

C.M.P.No.748 of 2017

V.Miruthubashini

... Petitioner

Vs

M.Vijayakumar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw H.M.O.P.No.13 of 2016 filed by the respondent herein pending on the file of the Sub Court, Pollachi and transfer the same to the file of the Principal Family Court, Coimbatore to be tried along with M.C.No.153 of 2016.

For Petitioner : Mr.Sivanandam

For Respondent : Served-No Appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed by the wife seeking transfer of H.M.O.P.No.13 of 2016 filed by the husband to be tried along with M.C.No.153 of 2016 filed by the wife on the file of the Family Court, Coimbatore.

2. The petitioner-wife has filed M.C.No.153 of 2016 before the Family Court, Coimbatore for maintenance. The respondent-husband filed H.M.O.P.No.13 of 2016 before the Sub Court, Pollachi for divorce.

3. It is stated by the petitioner/wife that she is living at Coimbatore along with her minor son and aged parents. She feels it very difficult to attend each and every hearing of the case at Pollachi along with her child. Since her parents are also aged, they are unable to accompany her to attend the Court hearings. Hence, she seeks for transfer.

4. Heard the learned counsel for the petitioner. Though the respondent is 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. Further, learned counsel for the petitioner placed reliance of Section 19(iii-a) of the Hindu Marriage Act to contend that the wife has got a preference to file a petition invoking the provisions of the Hindu Marriage Act before the competent Court where she is residing after her marriage.

6. I find force in the said submission of the learned counsel for the petitioner. Section 19(iii-a) of the Hindu Marriage Act gives a concession to the wife to file a petition before the competent Court where she is residing, either independently or along with her parents, or brother/sister, as the case may be. Therefore, as per Section 19(iii-a) of the Hindu Marriage Act, the wife is entitled to succeed in this Tr.C.M.P.

7. Accordingly, Tr.C.M.P is allowed and H.M.O.P.No.13 of 2016 pending on the file of the Sub Court, Pollachi shall stand withdrawn and the same is transferred to the Family Court, Coimbatore to be tried along with M.C.No.153 of 2016. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

09.10.2017

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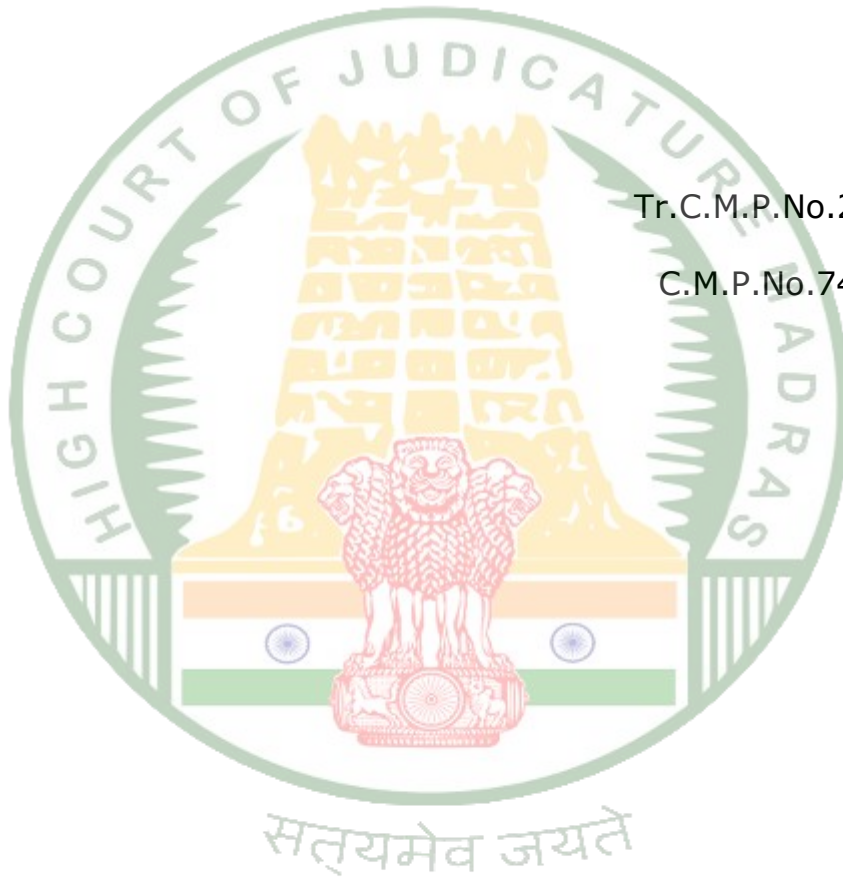
PUSHPA SATHYANARAYANA.J

srn

To

1.The Sub Court, Pollachi

2.The Principal Family Court, Coimbatore



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