

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.11.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.319 of 2017

and

C.M.P.No.5992 of 2017

D.Vijayalakshmi @ D.V.Lakshmi
.. Petitioner

-Vs-

B.Senthilkumar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.56 of 2016 pending on the file of the Sub-ordinate Judge, Dharapuram and transfer the same to the Family Court, Salem.

For petitioner : Mr.M.Alagusundaram

For Respondent : No appearance

O R D E R

The Tr.C.M.P has been filed by the petitioner-wife seeking to withdraw H.M.O.P.No.56 of 2016 on the file of the Subordinate Court, Dharapuram and transfer the same to the file of the Family Court, Salem.

2. H.M.O.P.No.56 of 2016 is filed by the respondent-husband under Section 9 of the Hindu Marriage Act before the Sub Judge, Dharapuram for restitution of conjugal rights.

3. The Wife has filed a petition in D.V.O.P.No.51 of 2016 which is pending before the Special Judicial Magistrate (Mahila Court), Salem.

4. Heard the learned counsel for the petitioner and perused the materials available on record. It is to be noted that the respondent has not appeared in person either through counsel or in person despite service of notice.

5. Though it is stated both the husband and the wife are employed and staying in Chennai the Wife is seeking transfer to any of the Family Courts in Salem. Though it is pointed out by the learned counsel for the petitioner that it is mandatory

for the parties to appear before the Family Court for each of the hearing, it was insisted that the matter be transferred only to Family Court, Salem, as it will be convenient for the wife to attend the hearings.

6. Considering the above facts and circumstances and also considering the provisions of Section 19 (iii-a) of the Hindu Marriage Act which gives preference for the wife to have a place of hearing convenient to her before the jurisdictional Court where she resides, this Court is inclined to transfer H.M.O.P.No.56 of 2016 on the file of the Subordinate Court, Dharapuram to the file of the Family Court, Salem.

7. Accordingly, the Tr.C.M.P is allowed and H.M.O.P.No.56 of 2016 pending on the file of the Subordinate Court, Dharapuram shall stand withdrawn and transferred to the file of the Family Court, Salem to be tried along with D.V.O.P.51 of 2016. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

srn

To

1.The Sub-ordinate Judge, Dharapuram.

2.The Judge, Family Court, Salem.

+1 CC to Mr.R. Thiagarajan, Advocate sr 77891.

सत्यमेव जयते

Tr.C.M.P.No.319 of 2017
and

C.M.P.No.5992 of 2017

NM(CO)

SP(27/11/2017)

WEB COPY