

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.327 of 2017
and C.M.P.No.6215 of 2017

Usha

... Petitioner

versus

Raja

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., praying to withdraw the case in H.M.O.P.No.248 of 2016 pending on the file of the Hon'ble Sub Court at Kancheepuram, and transfer the same to the file of the Hon'ble Family Court at Chengalpet and try along with F.C.M.C.No.20 of 2016 pending on the file of Hon'ble Family Court at Chengalpet.

For Petitioner : Mr.T.K.S.Gandhi

For Respondent : Sd-No appearance

O R D E R

The petitioner/wife in the matrimonial proceedings has filed this transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.248 of 2016, pending on the file of Sub Court, Kancheepuram and transfer the same to the file of Family Court, Chengalpet, to be tried along with F.C.M.C.No.20 of 2016.

2. The H.M.O.P.No.248 of 2016 was filed by the respondent/husband under Section 13(i-a) of the Hindu Marriage Act, before the Sub Judge, Kancheepuram, for dissolution of marriage held between the petitioner and the respondent on 21.06.2012. The petitioner/wife has filed F.C.M.C.No.20 of 2016 under Section 125 of Cr.P.C., before the District Family Court, Chengalpet for maintenance.

3. In the affidavit filed in support of the petition, the petitioner/wife has expressed her difficulty in travelling to Kancheepuram which is more than 40 kms from her residence. Further, it is stated that both Chengalpet and Kancheepuram

Courts are in equal distance from the respondent's residence. Hence, the petitioner/wife has sought for the transfer of H.M.O.P.No.248 of 2016 to the file of Family Court, Chengalpet, where the M.C. filed by the wife is also pending.

4. Heard the learned counsel for the petitioner. Though notice has been served on the respondent/husband and his name has been printed in the cause list, he has not entered appearance either in person or through counsel.

5. Considering Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.248 of 2016, pending on the file of Sub Court, Kancheepuram to the file of Family Court, Chengalpet, to be tried along with F.C.M.C.No.20 of 2016.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.248 of 2016, pending on the file of Sub Court, Kancheepuram shall stand withdrawn and transferred to the file of Family Court, Chengalpet, to be tried along with F.C.M.C.No.20 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

rsi

To

1. The Subordinate Judge,
Kancheepuram.
2. The Judge,
Family Court, Chengalpet.

+1cc to Mr.T.K.S.Gandhi, Advocate SR.No.85637

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SSI (CO)
GN(21/12/2017)