

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.332 of 2017
and
C.M.P.No.6750 of 2017

L.Iyswarya

.. Petitioner

-Vs-

M.Kamalakannan

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.631 of 2016 pending on the file of the Sub Court Poonamallee and transfer the same to the Sub-Court at Tambaram.

For petitioner : Mr.S.Ruban Prabu

For Respondent : No appearance

O R D E R

This transfer petition is filed by the wife seeking transfer of H.M.O.P.No.631 of 2016 pending on the file of the Sub Court, Poonamallee to the file of the Sub Court, Tambaram

2. The respondent/husband has filed H.M.O.P.No.631 of 2016 under Section 9 of the Hindu Marriage Act on the file of the Sub Court, Poonamallee for restitution of conjugal rights.

2. The wife, who is the petitioner herein, has filed H.M.O.P.No.236 of 2017 under section 13 of the Hindu Marriage Act on the file of the Sub Court, Tambaram for divorce. The wife has also filed D.V.No.4 of 2017 on the file of the Judicial Magistrate, Tambaram.

3. It is stated in paragraph 4 of the affidavit that the petitioner is staying in Perungalathur with her parents. It would be difficult for her to go to Poonamallee for the hearings, whereas in the Sub Court, Tambaram where already other matters are pending and it would be easy for her to handle, if it is transferred to Tambaram. Hence, prayed for transfer.

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

5. Considering the averments made in the affidavit and also Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife to file a petition in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.631 of 2016 pending on the file of the Sub Court, Poonamalee to the file of the Sub Court, Tambaram to be tried along with H.M.O.P.No.236 of 2017.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.631 of 2016 pending on the file of the Sub Court, Poonamalee shall stand withdrawn and transferred to the file of the Sub Court, Tambaram to be tried along with H.M.O.P.No.236 of 2017. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

srn
To

- 1.The Sub Judge, Poonamallee.
- 2.The Sub Judge, Tambaram.

+2 ccs to Mr.S.Ruban Prabu Advocate sr77904

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