

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.736 of 2014

and M.P.No.1 of 2014

Salomi ... Petitioner/Respondent

Vs.

Arokiyaraj ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the M.O.P.No.8 of 2014 on the file of District Judge, Karaikal and to transfer the same to the file of District Court, Nagapattinam for joint trial along with D.O.P.No.26 of 2014 on the file of District Court, Nagapattinam.
(Amended vide order of Court dated 28.11.2014 made in M.P.No.2 of 2014 in Tr.C.M.P.No.736 of 2014).

For Petitioner : Mr.M.Thamizhavel

For Respondent : No appearance

O R D E R

The petitioner/wife in a matrimonial proceedings has filed the above transfer Civil Miscellaneous Petition seeking to withdraw M.O.P.No.8 of 2014, pending on the file of District Court, Karaikal and transfer the same to the file of District Court, Nagapattinam for joint trial along with D.O.P.No.26 of 2014 on the file of District Court, Nagapattinam

2. The respondent/husband has filed the above M.O.P.No.8 of 2014 under Article 233 & 234 of the French Code Civil before the District Court, Karaikal for dissolution of marriage held between the petitioner and the respondent on 15.04.2010. The petitioner/wife has filed a petition in D.O.P.No.26 of 2014 under Section 32 of Indian Divorce Act, before the District Court, Nagapattinam for restitution of conjugal rights. The wife has also filed a petition in M.C.No.12 of 2014 under Section 125 of Cr.P.C. before the Chief Judicial Magistrate, Nagapattinam for maintenance.

3. The wife is living in Nagapattinam and the husband is living in Karaikal. It is stated by the petitioner/wife that a female child was born out of their wedlock and is also with the mother. In the affidavit, the wife has expressed difficulty in travelling from Nagapattinam to Karaikal by bus with the minor child for every hearing. Hence, the transfer is sought for.

4. Heard the learned counsel for the petitioner. Despite notice having been served on the respondent and the name of the respondent having been printed in the cause list, the respondent has not entered appearance either in person or through counsel.

5. As the M.C.No.12 of 2014 is pending in the Chief Judicial Magistrate Court, Nagapattinam and the fact that Section 19(iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer M.O.P.No.8 of 2014 from Karaikal to Nagapattinam.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and M.O.P.No.8 of 2014, pending on the file of District Court, Karaikal shall stand withdrawn and transferred to the file of District Court, Nagapattinam for joint trial along with D.O.P.No.26 of 2014. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rsi

To

1. The District Judge,
Karaikal.

2. The District Judge,
Nagapattinam.

+1cc to Mr.M.Thamizhavel, Advocate in sr.no.74925

Tr.C.M.P. No.736 of 2014
and M.P.No.1 of 2014

PVS (CO)
NR 04/12/2017