

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.11.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.390 of 2017
and C.M.P.No.7784 of 2017

S. Vijayalakshmi

... Petitioner

Vs.

V. Senthil

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.178 of 2016, pending before the Principal Sub Court, Mayiladuthurai and the same be transferred to the Sub Court, Tindivanam for joint trial with the case in H.M.O.P.No.11 of 2017 pending on the file of the Sub Court, Tindivanam.

For Petitioner : Mr.V.R.Appaswamee

For Respondent : Sd-No appearance

O R D E R

The wife in a matrimonial proceedings has filed the above transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.178 of 2016 pending on the file of Principal Sub Court, Mayiladuthurai and transfer the same to the file of Sub Court, Tindivanam to be tried along with H.M.O.P.No.11 of 2017 pending on the file of Sub Court, Tindivanam.

2. The respondent/husband has filed H.M.O.P.No.178 of 2016 under Section 13 (1) (i-a) & (i-b) of the Hindu Marriage Act, before the Principal Sub Court, Mayiladuthurai for dissolution of marriage solemnized between the petitioner and the respondent on 04.12.2008. The petitioner/wife has filed H.M.O.P.No.11 of 2017 under Section 9 of the Hindu Marriage Act, before the Sub Court, Tindivanam for restitution of conjugal rights.

3. The petitioner/wife claims to be residing in Tindivanam and she is taking care of the minor girl child born out of the wedlock. She expressed her difficulty in travelling from Tindivanam to Mayiladuthurai for each and every hearing. It is further stated that she is depending on her aged parents for her livelihood. Hence, seeking transfer to Sub Court, Tindivanam.

4. Heard the learned counsel for the petitioner. Though the respondent served with notice, he has not cared to appear either in person or through counsel.

5. Considering the averments made in the affidavit filed in support of the petition and taking into account Section 19 (iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides and also there will be a conflict in decisions, if the above said O.Ps. are tried in two different places, this Court feels it appropriate to transfer H.M.O.P.No.178 of 2016 from the file of Principal Sub Court, Mayiladuthurai to the file of Sub Court, Tindivanam, to be heard along with H.M.O.P.No.11 of 2017.

6. Accordingly, the transfer petition is allowed by withdrawing H.M.O.P.No.178 of 2016 from the file of Principal Sub Court, Mayiladuthurai and transferring the same to the file of Sub Court, Tindivanam to be tried along with H.M.O.P.No.11 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

rsi
To

1. The Principal Sub Judge,
Mayiladuthurai.

2. The Subordinate Judge,
Tindivanam.

+1cc to Mr.V.R.Appaswamee, Advocate SR.No.83486

sm:13.12.2017

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