

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR CMP NO.394 of 2017
AND CMP NO.7788 of 2017

P.Sugashini

... Petitioner

versus

K.Parthasarathi

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure to withdraw of F.C.O.P No. 318 of 2016 pending on the file of Family Court, Erode and Transfer the same to the file of the IInd Additional Family Court, Madras for being tried together with H.M.O.P No. 4431 of 2016.

For Petitioner : Ms.D.Uvarani

For Respondent : No appearance

ORDER

The petitioner has filed this transfer petition with a prayer

to withdraw the proceedings in F.C.O.P No. 318 of 2016 from the file of Family Court, Erode and transfer the same to the file of Second Additional Family Court, Chennai, to be tried along with H.M.O.P No.

4431 of 2016.

2. Heard the learned counsel for the petitioner, though notice was served, none appeared on behalf of the respondent.

3. The petitioner is a resident of Chennai. The respondent instituted a proceedings before the Family Court, Erode. According to the petitioner, she is residing at Chennai along with her two children aged 3 years and one year respectively and one of her child is suffering autism and as such, it would not be possible for her to travel from Chennai to Erode. Further, the petitioner has also filed a petition for restitution of Conjugal Rights, before the Second Additional Family Court, Chennai.

4. Section 19(iii-a) of the Hindu Marriage Act, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

5. The petitioner has produced sufficient materials justifying the transfer. In fact, there is nothing on record suspecting the *bonafides* in filing this transfer petition. Considering the day to day care to be taken for young children and the physical inconvenience caused to the petitioner, this Court is of the view that the transfer

petition deserves to be allowed.

6. Considering the facts and peculiar circumstances of the case, the proceedings in F.C.O.P.No.318 of 2016 is withdrawn from the file of Family Court, Erode and the same is transferred to the file of Second Additional Family Court, Chennai, to be tried along with H.M.O.P No.4431 of 2016, which is filed for restitution of conjugal rights. The Second Additional Family Court, Chennai is directed to renumber the Original Petition and proceed further, on merits and in accordance with law, as expeditiously as possible.

7. The Transfer Civil Miscellaneous Petition is disposed of . No costs. Consequently, connected miscellaneous petition is closed.

28.07.2017

Index : Yes/No

Internet : Yes/No

bsm/tk

To

1) The Family Court,
Erode.

2) The Second Additional Family Court,
Madras.

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M.GOVINDARAJ, J.

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