

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.395 of 2017
and C.M.P.No.7789 of 2017

Arun Meena

... Petitioner

versus

P. Sekar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., praying to withdraw and transfer H.M.O.P.No.281 of 2016 on the file of Principal Sub Court, Tiruppur to Sub Court, Sivakasi, to try along with H.M.O.P.No.45 of 2017 pending on the file of Sub Court, Sivakasi.

For Petitioner : Mr.B.Muthu Kannan
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.281 of 2016, pending on the file of Principal Sub Court, Tiruppur and transfer the same to the file of Sub Court, Sivakasi, to be tried along with H.M.O.P.No.45 of 2017.

2. The respondent/husband has filed H.M.O.P.No.281 of 2016 under Section 13(i-a)(i-b) of the Hindu Marriage Act, before the Principal Sub Judge, Tiruppur, for dissolution of marriage held between the petitioner and the respondent on 29.08.2014. The petitioner/wife has filed H.M.O.P.No.45 of 2017 under Section 9 of the Hindu Marriage Act, before the Sub Judge, Sivakasi for restitution of conjugal rights. The petitioner/wife has also filed D.V.C.No.7 of 2017 under Section 12, 18, 19, 20 & 23 of the Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate, Sivakasi for maintenance.

3. In the affidavit filed in support of the petition, the petitioner/wife has expressed her difficulty in travelling to Tiruppur. Further, it is stated that the petitioner has to be accompanied by her aged mother for each and every hearing. Hence, she seeks for the above transfer.

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 appeared 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.281 of 2016, pending on the file of Principal Sub Court, Tiruppur to the file of Sub Court, Sivakasi, to be tried along with H.M.O.P.No.45 of 2017.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.281 of 2016, pending on the file of Principal Sub Court, Tiruppur shall stand withdrawn and transferred to the file of Sub Court, Sivakasi, to be tried along with H.M.O.P.No.45 of 2017 already pending on the file of Sub Court, Sivakasi. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Principal Subordinate Judge,
Tiruppur.
2. The Subordinate Judge,
Sivakasi.

+lcc to Mr.B.Ram Prasath, Advocate sr.no.85045

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