

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.CMP.No.417 of 2017 and CMP.No.8725 of 2017

Sylandari @ Ambika

...Petitioner

Versus

Arumugam

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, praying to withdraw the H.M.O.P.No.59 of 2016 pending on the file of Subordinate Judge, Udumalpet, Tirupur district and transfer the same to the file of the Sub-Court, Pollachi, Coimbatore District and try along with H.M.O.P.No.67 of 2015 on the file of Sub-Court, Pollachi, Coimbatore district.

For Petitioner : Mr.C.Veeraraghavan
For Respondent : No Appearance

O R D E R

This petition has been filed by the petitioner/wife seeking to withdraw the H.M.O.P.No.59 of 2016 pending on the file of Subordinate Judge, Udumalpet, Tirupur District and transfer the same to the file of the Sub-Court, Pollachi, Coimbatore District to try along with H.M.O.P.No.67 of 2015 on the file of Sub-Court, Pollachi, Coimbatore District.

2. Heard the learned counsel for the petitioner. Despite the respondent being served and his name printed in the cause list, there is no representation on his behalf.

3. In the affidavit filed in support of this petition, it is stated that H.M.O.P.No.67 of 2015 was filed by the petitioner for restitution of conjugal rights before the Subordinate Judge, Pollachi, Coimbatore District. After receipt of the summons from the Court below the respondent/husband filed H.M.O.P.No.59/2016 for dissolution of marriage, before the Subordinate Judge, Udumalpet, Tirupur District. It is stated that the petitioner/wife is living with her aged parents at Anaimalai which is 50 kilometers from Udumalpet. It is further stated that since the parties in both the proceedings are one and the same,

both the matters have to be dealt with by the same Court and hence, seeks for transfer of the proceedings pending on the file of Subordinate Judge, Udumalpet, Tirupur District to the Subordinate Judge, Pollachi, Coimbatore District.

4. Considering the above facts and circumstances 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, this Court deems it fit to transfer the said H.M.O.P.59 of 2016 pending on the file of Subordinate Judge, Udumalpet, Tirupur District to Subordinate Judge, Pollachi, Coimbatore District.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.59 of 2016 pending on the file of Subordinate Judge, Udumalpet, Tirupur District is withdrawn and transferred to Subordinate Judge, Pollachi, Coimbatore District. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

raja/arr

To

1. The Subordinate Judge,
Udumalpet, Tirupur district.
2. The Sub-Court,
Pollachi, Coimbatore District.

+1 cc to M/s.C.Veeraraghavan Advocate sr 78041

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aa04/12/2017