

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.442 of 2017
and
C.M.P.No.9073 of 2017

Mrs.Subhasree

... Petitioner

Versus

A.Karthikeyan

... Respondent

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.749 of 2016 pending on the file of Sub Court at Tambaram and transfer the same before the Subordinate Court at Chidambaram, Cuddalore.

For Petitioner : Mrs.K.Santhakumari

For Respondent : Sole respondent
(not served)

O R D E R

The wife in the Matrimonial dispute is seeking transfer of H.M.O.P.No 749 of 2016, pending on the file of Sub Court, Tambaram, filed by the respondent/husband for divorce, under Section 13 (1)(A) of the Hindu Matrimonial Act.

2. The petitioner, in the affidavit filed in support of this petition has stated that she is a resident of Kattumannarkoil Taluk, Cuddalore District and it would be very difficult for her to attend Sub Court, Tambaram for each of the hearing . It is also mentioned that respondent is having permanent residence in Kattumannarkoil, which is within the jurisdiction of Sub Court, Chindambaram.

3. From the records it is seen that Notice was issued and Private Notice was also ordered to be served on the respondents. Private Notice taken to the address given in the H.M.O.P was returned with an endorsement "left". The petitioner also seems to have taken another notice to the address of the parents of

the respondents at Cuddalore, which was received and acknowledged by the father. Therefore, it has been held that when the post is sent to the respondent and it was returned with an endorsement "left", it is deemed to be a valid service. Today, despite the name of the respondent being printed in the cause list, there is no representation for the respondent either in person or through counsel.

4. Hence, considering the averments made in the affidavit filed in support of this petition 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.No.749 of 2016 pending on the file of Sub Court, Tambaram to Subordinate Court, Chidambaram, Cuddalore.

5. Accordingly, this petition is allowed and the proceedings pending on the file of H.M.O.P.No.749 of 2016, pending on the file of Sub Court, Tambaram is withdrawn and transferred to the file of Subordinate Court, Chidambaram, Cuddalore. No costs. Consequently, the Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arr

To

1.The Sub Court,
Tambaram

2.The Subordinate Court at Chidambaram,
Cuddalore.

+1cc to M/s.K.Santhakumari, Advocate, S.R.No.75605

Tr.C.M.P.No.442 of 2017

GMR(CO)
CA(14/11/2017)