

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.459 of 2017
and
C.M.P.No.9392 of 2017

S.Santhi

... Petitioner

versus

N.Komethagaraja

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., praying to withdraw H.M.O.P.No.192 of 2016 on the file of the Sub Court, Udumalaipet, Thirupur District and transfer the same to the Family Court, Coimbatore to try along with H.M.O.P.No.11 of 2017.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mr.R.Nandhakumar

O R D E R

The petitioner/wife has filed this transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.192 of 2016, pending on the file of Sub Court, Udumalaipet and transfer the same to the file of Family Court, Coimbatore to be tried along with H.M.O.P.No.11 of 2017.

2. The respondent/husband has filed H.M.O.P.No.192 of 2016 under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, before the Sub Judge, Udumalaipet, for dissolution of marriage held between the petitioner and the respondent on 12.03.2014. The petitioner/wife has filed H.M.O.P.No.11 of 2017 under Section 9 of the Hindu Marriage Act, before the Family Court, Coimbatore for restitution of conjugal rights.

3. In paragraph 5 of the affidavit filed in support of the petition it is stated that the petitioner/wife is not having any independent source of income and she is relying upon her parents for her survival. Hence, she expressed difficulty in travelling to Udumalaipet for each hearing.

4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

5. As the O.P. filed by the respondent/husband is for divorce and the O.P. filed by the petitioner/wife is for restitution of conjugal rights, in order to avoid any conflict in decision, it would be appropriate to direct joint trial of both the cases.

6. Considering Section 19(iii-a) of the Hindu Marriage Act, which speaks about the convenience of the wife is paramount, this Court is inclined to transfer H.M.O.P.No.192 of 2016, pending on the file of Sub Court, Udumalaipet to the file of Family Court, Coimbatore to be tried along with H.M.O.P.No.11 of 2017.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.192 of 2016 pending on the file of Sub Court, Udumalaipet shall stand withdrawn and transferred the same to the file of Family Court, Coimbatore, to be tried along with H.M.O.P.No.11 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

rna

To

1. The Sub Judge,
Udumalaipet, Thiruppur District.

2. The Judge,
Family Court, Coimbatore.

+1cc to Mr.R.Nandha Kumar, Advocate SR.No.84019

+1cc to Mr.C.D.Sugumar, Advocate SR.No.83809

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GN(13/12/2017)