

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.528 of 2017
and
C.M.P.No.10876 of 2017

G.Saranya ...Petitioner

Versus

S.Gunaselvam ... Respondent

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.28 of 2017 pending on the file of Family Court, Thiruvallur and transfer the same to the Principal Family Court, Chennai.

For Petitioner : Mr.D.Rajagopal
For Respondents : No appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.28 of 2017 pending on the file of Family Court, Thiruvallur and transfer the same to the Family Court, Chennai.

2.In the affidavit filed in support of this petition, it is stated that the marriage between the petitioner and the respondent was solemnized on 02.07.2014 and out of the wedlock a male child was born on 05.10.2015. It is further stated that the petitioner's father-in-law forcibly took the petitioner to her parent's home and left there. In the mean time, the respondent herein filed H.M.O.P.No.28 of 2017, before the Family Court, Thiruvallur seeking divorce. The petitioner expressed her difficulty to travel from Kodungayur, Chennai to

Thiruvallur along with her one and half year old male baby and further states that she has no source of income and she is depending on her parents and therefore filed this petition for transfer.

3. The learned counsel appearing for the petitioner would submit that pending this petition, the petitioner/wife filed a petition for restitution of conjugal rights before the III Additional Family Court, Chennai in O.P.3419 of 2017 and the same is pending. An additional affidavit to that effect has also been filed. He therefore seeks to withdraw H.M.O.P.No.28 of 2017 pending on the file of Family Court, Thiruvallur and transfer the same to the file of III Additional Family Court, Chennai to try along with O.P.No.3419 of 2017.

4. Considering the facts and circumstances of the case 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.28 of 2017 pending on the file of Family Court, Thiruvallur to III Additional Family Court, Chennai.

5. Accordingly, this petition is allowed and the proceedings pending in H.M.O.P.No.28 of 2017, pending on the file of Family Court, Thiruvallur is withdrawn and transferred to the file of III Additional Family Court, Chennai to try along with O.P.No.34199 of 2017. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

arr
To

1. The Family Court, Thiruvallur.
- 2.The III Additional Family Court, Chennai.

+1cc to Mr.D.RAJAGOPAL, Advocate, S.R.No. 85240/17

Tr.C.M.P.No.528 of 2017

TR(14/12/2017)