

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.549 of 2017
and
C.M.P.No.11276 of 2017

S.Prema

... Petitioner

versus

UdhayaSaravanan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C. praying to withdraw and transfer H.M.O.P.No.309 of 2017 from the file of Subordinate Court at Tambaram to the file of Principal Judge, Family Court, Chennai or any competent Court to try the same along with H.M.O.P.No.2147 of 2017.

For Petitioner : Mr.P.V.Selvarajan
for Ms.S.Lekha

For Respondent : Mr.R.Amizhdhu

O R D E R

The petitioner/wife has filed this transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.309 of 2017, pending on the file of Subordinate Court, Tambaram and transfer the same to the file of Principal Family Court, Chennai to be tried along with H.M.O.P.No.2147 of 2017, which is already pending.

2. The respondent/husband has filed H.M.O.P.No.309 of 2017 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Sub Judge, Tambaram, for dissolution of marriage solemnized between the petitioner and the respondent on 22.08.2005. The petitioner/wife has filed H.M.O.P.No.2147 of 2017 under Section 9 of the Hindu Marriage Act, before the Principal Judge, Family Court, Chennai for restitution of conjugal rights.

3. It is stated that the petitioner/wife is staying in Chennai and a female child born out of the wedlock is also studying in Chennai. In paragraph 4 of the affidavit filed in support of the petition, she expressed her difficulty in travel all the way to Tambaram to attend each hearing. Hence, the transfer is sought for.

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 gives preference for the wife in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.309 of 2017, pending on the file of Subordinate Court, Tambaram to the file of Principal Judge, Family Court, Chennai, to be heard along with H.M.O.P.No.2147 of 2017.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.309 of 2017 pending on the file of Subordinate Court, Tambaram shall stand withdrawn and transferred the same to the file of Principal Judge, Family Court, Chennai, to be tried along with H.M.O.P.No.2147 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-Iv)

//True Copy//

Sub Assistant Registrar

rna/rsi

To

1. The Subordinate Judge,
Tambaram.

2. The Principal Judge, सत्यमेव जयते
Family Court, Chennai.

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NM(CO)
EU(15/12/2017)