

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.721 of 2017
and C.M.P.No.14629 of 2017

U.Venkateswari ... Petitioner

vs.

K. Udayakumar ... Respondent

Prayer: The petition has been filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.40 of 2013, from the file of Subordinate Court, Ponneri and transfer the same to the file of Family Court, Madurai, to be tried jointly along with H.M.O.P.No.159 of 2013.

For Petitioner : Mr.R.Munuswamy

For Respondent : Ms.A.M.Amutha Ganesh

O R D E R

The petitioner/wife in a matrimonial dispute has filed this Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.40 of 2013, pending on the file of Sub Court, Ponneri and transfer the same to the file of Family Court, Madurai, to be tried jointly along with H.M.O.P.No.159 of 2013.

2. The respondent/husband has filed the above H.M.O.P.No.40 of 2013 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Sub Judge at Ponneri for dissolution of marriage held between the petitioner and the respondent on 24.03.2011. The wife has also filed a petition in H.M.O.P.No.159 of 2013 under Section 9 of the Hindu Marriage Act, before the Family Judge, Madurai for restitution of conjugal rights and same is still pending.

3. It is stated that the petitioner/wife is now residing at Madurai and is unemployed. In the affidavit she expressed her difficulty as she has to travel all along 600 kilometres from Madurai to Ponneri to attend each and every hearing. It is also stated that her parents are aged and they could not accompany her. Hence, transfer is sought for.

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

5. Considering the averments made in the affidavit and also Section 19(iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P.No.40 of 2013 from Sub Court, Ponneri to Family Court, Madurai. However, learned counsel appearing for the respondent has no objection for the above transfer.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.40 of 2013, pending on the file of Sub Court, Ponneri shall stand withdrawn and transferred to the file of Family Court, Madurai to be tried along with H.M.O.P.No.159 of 2013. As both the O.Ps. are of the year 2013, after the material papers are received, the Family Court, Madurai is directed to dispose of both, H.M.O.P.No.40 of 2013 and H.M.O.P.No.159 of 2013 as expeditiously as possible. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Judge,
Ponneri.

2. The Judge,
Family Court, Madurai.

+1cc to Mr.R.Munuswamy Advocate, S.R.No.75035

+1cc to Ms.A.M.Amutha Ganesh Advocate, S.R.No.74570

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RK (CO)
TR(20/11/2017)