

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.CMP.No.83 of 2017
and CMP.No.1629 of 2017

Smt.M.Sundaravalli

...Petitioner

Versus

S.Venkatesan

....Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer the H.M.O.P.No.715 of 2016 pending on the file of Sub-Court, Tambaram to the Sub-Court, Tindivanam.

For Petitioner : Mr.V.A.Muthu

For Respondent : Mr.T.Vijayraghavan

For Sole Respondent

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the petitioner, seeking to transfer the H.M.O.P.No.715 of 2016 pending on the file of Sub-Court, Tambaram to the Sub-Court, Tindivanam.

2. Heard both sides.

3. In the affidavit filed in support of this petition, it is stated that the marriage between the petitioner and the respondent was solemnised on 06.03.2006 and out of their wedlock there was a male child born to them who is now aged about 9 years. It is stated that the respondent had driven the petitioner from the matrimonial home and now she is staying along with her parents in Villupuram. The respondent herein has filed H.M.O.P.No.715 of 2016, before the Subordinate Judge, Tambaram for restitution of conjugal rights and the petitioner has filed M.C.No.5 of 2016, before the District Munsif, Court No.2, Tindivanam for maintenance. The petitioner/wife states that it would be difficult to travel from Tindivanam to Tambaram to attend the hearings of H.M.O.P.No.715 of 2016 and since she is unemployed, she is not in a position to afford to travel from Tindivanam to Tambaram and hence filed this petition seeking transfer.

4. Considering the above facts and circumstances 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. 715 of 2016 pending on the file of Subordinate Court, Tambaram to Subordinate Court, Tindivanam.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.715 of 2016 pending on the file of Subordinate Court, Tambaram shall stand withdrawn and transferred to the file of Subordinate Court, Tindivanam.

6. Though the matter is transferred to Sub-Court, Tindivanam, it is stated by the learned counsel for the respondent that the presence of the respondent is necessary for every hearing.

7. It is made clear that it is not necessary for the husband to appear before the Subordinate Court, Tindivanam for each and every hearing, till the trial commences or any other situation that warrants his presence. It is suffice if the respondent represents through counsel before the Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (CS-)

//True Copy//

Sub Assistant Registrar

raja/arr

To

1. The Sub-Court,
Tambaram.

2. The Sub-Court,
Tindivanam.

+1cc to Mr.V.A.MUTHU Advocate, S.R.No. 76823
+1cc to Mr.T.VIJAYA RAGHAVAN Advocate, S.R.No. 77004

Tr.CMP.No.83 of 2017
and CMP.No.1629 of 2017

TR(30/11/2017)