

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.279 of 2015
and M.P.No.1 of 2015

V. Chithra ... Petitioner

vs.

S. Velmurugan ... Respondent

Prayer: This transfer petition has been filed under Section 24 of C.P.C. praying to withdraw the H.M.O.P.No.108 of 2014 on the file of the Principal subordinate Court, Myladuthurai and to transfer and to try along with H.M.O.P.No.141 of 2014 on the file of Principal Subordinate Court, Kumbakonam.

For Petitioner : Mr.G.Muthukumar

For Respondent : Sd-No appearance

O R D E R

This transfer petition has been filed by the petitioner/wife, seeking transfer of H.M.O.P.No.108 of 2014, on the file of Principal Sub Court, Mayiladuthurai to the file of Principal Sub Court, Kumbakonam, to be tried along with H.M.O.P.No.141 of 2014 pending on the file of Principal Sub Court, Kumbakonam.

2. The respondent/husband had filed H.M.O.P.No.108 of 2014 under Section 13(1)(i-a) of Hindu Marriage Act, before the Principal Sub Judge, Mayiladuthurai for dissolution of marriage held between the petitioner and the respondent on 21.06.2012 and the respondent has also engaged a counsel and filed counter on 07.04.2015. The wife has also filed H.M.O.P.No.141 of 2014 under Section 9 of Hindu Marriage Act, before the Principal Sub Judge, Kumbakonam for restitution of conjugal rights.

3. As there are two different proceedings pending before two different Courts and the independent trial of the same would lead to conflict of decision, the transfer petition is filed. The wife has also alleged that she would be physically assaulted if she goes to Sub Court, Mayiladuthurai to defend her case.

4. Heard the learned counsel for the petitioner. Though the respondent served with notice, he has not appeared either in person or through counsel.

5. Considering the averments made in the affidavit and also Section 19(iii-a) of Hindu Marriage Act, which gives preference to the wife where she resides, this Court feels it appropriate to transfer H.M.O.P.No.108 of 2014 filed by the husband on the file of Principal Sub Court, Mayiladuthurai to the file of Principal Sub Court, Kumbakonam.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed by withdrawing H.M.O.P.No.108 of 2014, pending on the file of Principal Sub Court, Mayiladuthurai and transferring the same to the file of Principal Sub Court, Kumbakonam to be tried along with H.M.O.P.No.141 of 2014. On receipt of the papers, the Principal Sub Court, Kumbakonam is directed to dispose of both H.M.O.P.No.108 of 2014 and H.M.O.P.No.141 of 2014 as expeditiously as possible. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Sub Judge,
Mayiladuthurai.
2. The Principal Sub Judge,
Kumbakonam.

+1cc to Mr.G.MUTHUKUMAR Advocate, S.R.No. 79714

Tr.C.M.P.No.279 of 2015
and M.P.No.1 of 2015

TR(06/12/2017)

WEB COPY