

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.283 of 2015
and M.P.Nos.2 & 1 of 2015

M. Menaga

... Petitioner

Vs.

S. Balamurugan

... Respondent

Prayer: The petition has been filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.187 of 2013 on the file of the learned Subordinate Judge at Kancheepuram and transfer the same to the learned Principal Family Judge at Chennai and tried along with O.P.No.361 of 2015.

For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mrs.K.Santhakumari

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.187 of 2013, pending on the file of Sub Court, Kancheepuram and transfer the same to the file of Principal Family Court, Chennai to be tried along with O.P.No.361 of 2015.

2. The respondent/husband has filed the above H.M.O.P.No.187 of 2013 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Sub Judge at Kancheepuram for dissolution of marriage held between the petitioner and the respondent on 16.04.2008 on the ground of cruelty. The wife has also filed a petition in O.P.No.361 of 2015 under Section 9 of the Hindu Marriage Act, before the Principal Family Judge, Chennai for restitution of conjugal rights and the same is still pending.

3. The wife is living in Chennai and the husband is living in Kancheepuram. The marriage was also performed in Chennai. The grievance of the petitioner/wife is that she is in need of monetary support for her livelihood and hence, she could not travel from Chennai to Kancheepuram for each and every hearing. Therefore, the wife has filed the above transfer petition, seeking transfer of H.M.O.P.No.187 of 2013 from the file of Sub

Court, Kancheepuram to the file of Principal Family Court, Chennai to be tried along with O.P.No.361 of 2015.

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.187 of 2013 from Sub Court, Kancheepuram to Family Court, Chennai. However, learned counsel appearing for the respondent has got no serious objection for the transfer.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.187 of 2013, pending on the file of Sub Court, Kancheepuram shall stand withdrawn and transferred to the file of Principal Family Court, Chennai to be tried along with O.P.No.361 of 2015. On receipt of the papers relating to H.M.O.P.No.187 of 2013, the Principal Family Court is directed to dispose of both, O.P.No.361 of 2015 and H.M.O.P.No.187 of 2013 as expeditiously as possible. No Costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

rsi

To

1. The Sub Judge,
Kancheepuram.

2. The Principal Family Judge,
Chennai.

+1 CC to Mr.R. Ganesh Kumar, Advocate sr 74404.

+1 CC to Mr.K. Santhakumar, Advocate sr 74547.

Tr.C.M.P.No.283 of 2015
and M.P.Nos.2 & 1 of 2015

SP(23/11/2017)