

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:30.10.2017

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
Tr.C.M.P.No.546 of 2016
and C.M.P.No.14949 of 2016

Dr.P.Aarthi

... Petitioner

Vs.

Dr.R.Mukundan

... Respondent

Prayer: The Transfer Petition filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P. No.38 of 2016 from the file of Sub Court, Neyveli and transfer the same to the file of Principal Sub Court, Mayiladuthurai for joint trial along with H.M.O.P. No.128 of 2016.

For Petitioner : Ms.P.Srividhya
For Respondent : Sd-No appearance

O R D E R

The petitioner/wife in the matrimonial dispute has filed above Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P. No.38 of 2016, pending on the file of Sub Court, Neyveli and transfer the same to the file of Principal Sub Court Mayiladuthurai to be tried along with H.M.O.P.No. 128 of 2016 on the file of Principal Sub Court, Mayiladuthurai.

2. The respondent/husband has filed the above H.M.O.P.No.38 of 2016 under Section 9 of the Hindu Marriage Act, before the Sub Court, Neyveli for restitution of conjugal rights. The wife has already filed a petition in H.M.O.P.No.128 of 2016 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Principal Sub Court Mayiladuthurai for dissolution of marriage held between the petitioner and the respondent on 12.12.2010.

3. It is stated that the petitioner is a resident of Mayiladuthurai and she is also taking care of the minor child born out of the wedlock. The petitioner as well as the respondent are Doctors. According to the petitioner, she has filed divorce petition only on the ground of cruelty, in the hands of the husband. She further stated that it is also difficult for her to travel from Mayiladuthurai to Neyveli, which is about 90 Kms away by leaving the minor child.

4. Heard the learned counsel for the petitioner. Despite notice having been served on the respondent/husband and the name of the respondent having been printed in the cause list,

the respondent has not cared to appear either in person or through counsel.

5. Considering the above pleadings and also Section 19 (iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P. No.38 of 2016 pending on the file of Sub Court, Neyveli to the Principal Sub Court Mayiladuthurai to be tried along with H.M.O.P.No.128 of 2016, which is filed by the petitioner.

6. Accordingly, this Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.38 of 2016, pending on the file of Sub Court, Neyveli shall stand withdrawn and transferred to the Principal Sub Court Mayiladuthurai to be tried along with H.M.O.P.No.128 of 2016. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(cs VIII)

//True Copy//

Sub Assistant Registrar

msvm/rsi
To

1. The Sub Court,
Neyveli.
2. The Principal Sub Court,
Mayiladuthurai.

+1cc to M/s.A.Muthukumar, Advocate SR.No.76811

Tr.C.M.P.No.546 of 2016
and C.M.P.No.14949 of 2016

sm:6.12.2017

WEB COPY