

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

TR.CMP.No.611 of 2016
and
C.M.P.No.16481 of 2016

Usha ... Petitioner

vs

Muthukumar ... Respondent

Prayer: Transfer Civil Miscellaneous petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case pending in HMOP No.43 of 2016 on the file of the Subordinate Court, Ariyalur and to transfer the same to the Family Court at Puducherry.

For Petitioner : Ms.Banumathy Baskaran

For Respondent : Mr.K.Moorthy

ORDER

The petitioner/wife, has sought for a transfer in a matrimonial proceeding, to withdraw HMOP No.43 of 2016 filed by the husband under Section 13(1) of the Hindu Marriage Act, seeking divorce pending on the file of the Subordinate Court, Ariyalur and to transfer the same to the Family Court at Puducherry, where HMOP No.28 of 2016 filed by her under Section 9 of the Act for restitution of conjugal rights, is pending.

2. Heard both sides.

3. It is stated by the petitioner that at present, she is living with her minor child, aged about 6 years in Puducherry. According to her, she is employed as a Primary School Teacher in Puducherry and is taking care of her child. Since the respondent has filed the HMOP for dissolution of marriage before the Sub Court, Ariyalur, it will be difficult for her to travel along with the minor child for each and every hearing. Whereas, if the HMOP No.43 of 2016 filed by the respondent is transferred to the file of the Family Court, Puducherry to be

tried along with the petition filed by her seeking restitution of conjugal rights in HMOP No.28 of 2016 in the said court, it will be easy and convenient for her to take care of all the matters.

4. Though the transfer sought for by the petitioner/wife is vehemently opposed by the respondent/husband, this Court is of the view that if both the petitions are allowed to be proceeded independently, it will result in conflicting decisions. Further, as stated by the petitioner, she has to travel for each and every hearing along with the minor child.

5. Considering the facts and circumstances of the case and the difficulty expressed by the petitioner/wife, this Court is inclined to allow this petition. Accordingly, the HMOP No.43 of 2016 filed by the respondent/husband and pending on the file of the Sub Court, Ariyalur is withdrawn and transferred to the file of the Family Court, Puducherry to be tried along with HMOP No.28 of 2016 filed by the petitioner/wife. The Sub Court, Ariyalur is directed to send all the papers pertaining to the above petition to the Family Court, Puducherry, immediately, on receipt of a copy of this order.

6. This Transfer Civil Miscellaneous Petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Judge,
Ariyalur.

2. The Judge,
Family Court, Puducherry.

+1cc to Mr.K.Moorthy, Advocate SR.4770

TR.CMP.No.611 of 2016

kji[col
srg 6/2/2017