

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.775 of 2016
and C.M.P.No.19800 of 2016

E. Manju

... Petitioner

Vs.

Raja

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.69 of 2016 from the file of Sub Court, Sivagangai and transfer the same to the file of the Family Court, Puducherry to be tried along with H.M.O.P.No.463 of 2016 on the file of Family Court, Puducherry.

For Petitioner : Mr.S.Saravanan

For Respondent : Sd - No appearance

O R D E R

The petitioner/wife in a matrimonial proceedings has filed the above transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No. 69 of 2016, pending on the file of Sub Court, Sivagangai and transfer the same to the file of Family Court, Pondicherry to be tried along with H.M.O.P.No.463 of 2016, pending on the file of Family Court, Pondicherry.

2. The respondent/husband has filed the above H.M.O.P.No.69 of 2016 under Section 13(1)(i-a)(i-b) of Hindu Marriage Act, before the Sub Court, Sivagangai for dissolution of marriage held between the petitioner and the respondent on 21.10.2009. The petitioner/wife also filed H.M.O.P.No.463 of 2016 under Section 9 of the Hindu Marriage Act, before the Family Court, Pondicherry for restitution of conjugal rights.

3. It is stated by the petitioner/wife that she is taking care of the children born out of the wedlock and it is difficult for her to travel to Sub Court, Sivagangai. Therefore, the wife has filed the above transfer petition.

4. Heard the learned counsel for the petitioner. Though the respondent is served with notice and his name has been printed in the cause list, there is no representation for the respondent either in person or through counsel.

5. Considering the fact that the wife is living with her two minor children, it would be appropriate to transfer the H.M.O.P.No.69 of 2016 filed by the husband on the file of Sub Court, Sivagangai to be tried along with H.M.O.P.No.463 of 2016 filed by the wife on the file of Family Court, Pondicherry.

6. As 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. 69 of 2016 pending on the file of Sub Court, Sivagangai.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.69 of 2016 pending on the file of Sub Court, Sivagangai shall stand withdrawn and transferred to the file of Family Court, Pondicherry to be tried along with H.M.O.P.No.463 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

rsi

sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Sivagangai.

2. The Judge,
Family Court, Pondicherry.

+1 CC to Mr.S.SARAVANAN, Advocate Sr.No. 74389

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SJ (CO)
MLT 06/12/2017