

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.799 of 2016
and C.M.P.No.20236 of 2016

M. Surya ... Petitioner

S. Ragavan ... Respondent

Prayer: This transfer petition has been filed under Section 24 of C.P.C. praying to withdraw the case, H.M.O.P.No.544 of 2016 on the file of the Subordinate Court, Tambaram and transfer to the Subordinate Court, Hosur, Krishnagiri District.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.S.Shankar

ORDER

The petitioner/wife in the matrimonial dispute has filed this Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.544 of 2016, pending on the file of Sub Court, Tambaram and transfer the same to the file of Sub Court, Hosur.

2. The respondent/husband has filed the above H.M.O.P.No.544 of 2016 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Sub Judge, Tambaram, for dissolution of marriage solemnized between the petitioner and the respondent on 09.09.2013 on the ground of cruelty.

3. It is stated in the affidavit that she is in advanced stage of pregnancy and could not be able to attend the Court proceedings at Chennai owing to physical condition, though the same is denied and disputed by the respondent. It is stated in the affidavit filed by the petitioner that the respondent has been attending the Domestic Violence Case in D.V.C.No.4 of 2016 before the Judicial Magistrate No.II, Hosur.

4. Heard the learned counsel for the petitioner as well as learned counsel for the respondent.

5. It is stated by the learned counsel for the respondent that the respondent is living outside India. It will be inconvenient for him to come to Hosur for each hearing. After

deliberation, the counsels have agreed that, the O.P. may be transferred to Sub Court, Krishnagiri.

6. Considering the convenience and also Section 19(iii-a) of the Hindu Marriage Act, which gives preference to the wife in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.544 of 2016, pending on the file of Sub Court, Tambaram.

7. As the matter is only transferred to the Sub Court, Krishnagiri, it would be easy for both the counsels to engage an advocate, till such time the trial is commenced. The presence of the parties is required only when the trial commences. Therefore, there cannot be any serious objection for both the petitioner and the respondent for transferring the H.M.O.P.No.544 of 2016 from Sub Court, Tambaram to Sub Court, Krishnagiri. It is also made clear that the presence of the parties need not be insisted by the Sub Court unless otherwise warranted till the commencement of the trial.

8. With the above observation, the Transfer Civil Miscellaneous Petition is allowed by withdrawing H.M.O.P.No.544 of 2016, pending on the file of Sub Court, Tambaram and transferring the same to the file of Sub Court, Krishnagiri instead of Sub Court, Hosur as prayed for. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Subordinate Judge,
Tambaram.
2. The Subordinate Judge,
Krishnagiri.

- + 1 cc to MR. C. Munusamy, Advocate SR.79394
+ 1 cc to Mr. S. Shankar, Advocate Sr.79767

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CS-IV

EU (07/12/2017)

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