

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

Tr.CMP.No.1006 of 2017
and CMP.No.20405 of 2017

S.Suganyadevi

... Petitioner

Versus

R.Thangamani

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.1329 of 2017 from the file of the Principal Family Court, Coimbatore and transfer the same to the file of the Sub-Court, Udumalpet, to be tried along with H.M.O.P.No.171 of 2015.

For Petitioner : Mr.A.Sathishkumar
For Respondent : Mr.S.Veeraraghavan
For Mr.S.Ramesh

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the wife/petitioner herein seeking transfer of H.M.O.P.No.1329 of 2017 from the file of the Principal Family Court, Coimbatore to the file of the Sub-Court, Udumalpet.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. In the affidavit filed in support of this petition, it is stated by the wife/petitioner that the marriage between the petitioner and the respondent was solemnized on 12.06.2014 at Udumalpet. Due to the torture faced by the petitioner in the matrimonial home, she left from the matrimonial home and now living with her parents. It is further stated that the wife/petitioner had filed a petition in H.M.O.P.No.171 of 2015 before the Sub-Court, Udumalpet seeking divorce and the respondent/husband filed H.M.O.P.No.1329 of 2017, before the Principal Family Court, Coimbatore seeking restitution of conjugal rights. In paragraph 8 of the affidavit, it is stated that she is a permanent resident of Udumalpet and she has to seek help from others to travel to Coimbatore to attend the hearings in H.M.O.P.No.1329 of 2017 since her parents are aged and suffering from ailments. Hence, she has expressed her difficulty in traveling from Udumalpet to Coimbatore for each of the hearings of H.M.O.P.No.1329 of 2017 and seeks transfer of

the proceedings in H.M.O.P.No.1329 of 2017 from the Principal Family Court, Coimbatore to the Sub Court, Udumalpet to try along with H.M.O.P.No.171 of 2015.

4. As the petition filed by the husband for restitution of conjugal rights is before the Family Court, Coimbatore, the appearance of the wife is mandatory, whereas, the wife has filed the petition for divorce before the Sub-Court, Udumalpet where the parties presence is not mandatory and the distance is also 40 kilometers from Coimbatore to Udumalpet.

5. Considering the above facts and circumstances and the fact that 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.No.1329 of 2017 from the file of the Principal Family Court, Coimbatore to the file of the Sub-Court, Udumalpet, to be tried along with H.M.O.P 171 of 2015 pending before the same Court.

6. In view of the above, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.1329 of 2017 pending on the file of the Principal Family Court, Coimbatore is withdrawn and transferred to the file of the Sub-Court, Udumalpet, to be tried along with H.M.O.P.No.171 of 2015 pending before the same Court. However, the appearance of the respondent/husband is dispensed with till the commencement of the trial unless otherwise warranted. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

raja

To

1. The Principal Family Court,
Coimbatore.

2. The Sub-Court,
Udumalpet.

+1cc to Mr.A.Sathish Kumar, Advocate SR.No.2011

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GN(19/01/2018)