

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.02.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.1020 of 2017
and C.M.P.No.20823 of 2017

T. Vijayakumari

... Petitioner

versus

H. Sivakumar

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.256 of 2017, pending on the file of the Subordinate Court, Kancheepuram and transfer the same to any of the Family Courts at Chennai to be enquired and disposed of.

For Petitioner : Mr.P.Mani

For Respondent : Mr.S.G.Ramesh Kumar

O R D E R

The petitioner/wife in the matrimonial dispute has filed the above Transfer Miscellaneous Petition seeking to withdraw H.M.O.P.No.256 of 2017 filed by the respondent/husband for divorce under Section 13(1)(i-a) of the Hindu Marriage Act, pending on the file of Subordinate Court, Kancheepuram and transfer the same to any of the Family Courts in Chennai.

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

3. In para 4 of the affidavit, the petitioner has stated that she is residing at Kunrathur along with her mother and she finds it very difficult to go to Kancheepuram along with her mother and attend the hearing. She apprehends danger to her life and to her mother at the hands of the respondent, if they go to Kancheepuram. Further it is stated that the petitioner/wife will appear in person before the Family Court and defend the case without engaging a counsel.

4. The respondent/husband has also filed his counter affidavit contending that the Courts in Chennai do not have jurisdiction. However, it is admitted that the Court, in which the O.P. was originally instituted, has got jurisdiction to

entertain the same and accordingly it has been numbered. From the long cause title of the petition, it is seen that both the petitioner as well as respondent are residing in Kunrathur, Chennai. However this case is filed before the Subordinate Court, Kancheepuram, being the place, which has jurisdiction to entertain the O.P.

5. Though opposed by the learned counsel for the respondent, originally the learned counsel did not have any objection for the transfer of the O.P. to any of the Family Courts in Chennai only on condition that the same may be disposed of within a period of six months. First of all, once the matter is transferred, it is not known as to which Court, it will be allotted to. Secondly, it is only convenience of the Court to entertain the matter, as and when it is listed. The respondent cannot insist that the O.P. Should be disposed of within six months.

6. Now, Considering Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides and the convenience of both the parties, as they are living only in Kunrathur, Chennai, this Court is inclined to transfer H.M.O.P.No.256 of 2017 from the file of Subordinate Court, Kancheepuram to any of the Family Courts in Chennai and the respondent/husband cannot have any grievance for the transfer.

7. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.256 of 2017, pending on the file of Subordinate Court, Kancheepuram is transferred to any of the Family Courts in Chennai. The learned Family Judge, Chennai is directed to dispose of the H.M.O.P.No.256 of 2017 as expeditiously as possible. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Subordinate Judge,
Kancheepuram.

2. The Judge, Family Court,
Chennai.

+1cc to Mr.P.Mani, Advocate Sr.No.14907

RJ(CO)
sm:20.3.2018

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