

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.1025 of 2017
and C.M.P.No.20859 of 2017

K. Surekha ... Petitioner

versus

K. Deepak ... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw F.C.O.P.No.140 of 2017 pending on the file of Family Court at Chengalpet and transfer the same to the III Additional Family Court at Chennai in trial to be tried along with M.C.No.464 of 2017.

For Petitioner : Ms.S.S.Jothivani
For Respondent : Mr.J.Arokhiaraj

O R D E R

The Transfer Civil Miscellaneous petition is filed by the petitioner/wife in the matrimonial dispute seeking to withdraw F.C.O.P.No.140 of 2017, pending on the file of Family Court, Chengalpet and transfer the same to the file of III Additional Family Court, Chennai, to be tried along with M.C.No.464 of 2017.

2. The respondent/husband has filed F.C.O.P.No.140 of 2017 under Section 13(1)(i)(i-a) of the Hindu Marriage Act, before the Family Court, Chengalpet, for divorce on the grounds of cruelty, ill-treatment and adultery, whereas the petitioner/wife has filed M.C.No.464 of 2017 under Section 125 of Cr.P.C., before the III Additional Family Court, Chennai for maintenance.

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

4. The petitioner/wife has stated that she is having a child aged about 10 months, born out of the wedlock and it will be difficult for her to attend the Court proceedings at Chengalpet along with the child, as the travel time itself is more than one hour. Hence, the petitioner/wife is now seeking transfer of F.C.O.P.No.140 of 2017, from the file of Family Court, Chengalpet to the file of III Additional Family Court,

Chennai, to be tried along with M.C.No.464 of 2017, which is already pending.

5. Considering the fact that M.C.No.464 of 2017 is pending before the III Additional Family Court, Chennai and the respondent/husband has been attending the same, it would not be prejudicial if the F.C.O.P.No.140 of 2017 is also transferred to the same Court and tried along with M.C.No.464 of 2017. That apart, it is well settled that Section 19(iii-a) of the Hindu Marriage Act, mandates that the convenience of the wife has to be considered.

5. In the light of the above, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.140 of 2017, pending on the file of Family Court, Chengalpet shall stand withdrawn and transferred to the file of III Additional Family Court, Chennai, to be tried along with M.C.No.464 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

rsi

To

1. The Family Judge,
Chengalpet.
2. The III Additional Judge,
Family Court, Chennai.

+1cc to Mr.S.S.Jhothivani, Advocate SR.No.9913

Tr.C.M.P. No.1025 of 2017
and C.M.P.No.20859 of 2017

GN(20/02/2018)

WEB COPY