

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.1084 of 2017

and C.M.P.No.22350 of 2017

Sakthi Suganya

... Petitioner

Vs.

G.Prabhakaran

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.67 of 2017 pending on the file of the Subordinate Court, Harur and transfer the same to the file of the Family Court, Salem to be tried along M.C.No.53 of 2017.

For Petitioner : Mr.B.R.Shankaralingam

For Respondent : Served-No Appearance

O R D E R

The petitioner/wife in the matrimonial dispute has filed this Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.67 of 2017 filed by the respondent/husband under Section 13(i) (i-a) of the Hindu Marriage Act for divorce, pending on the file of Subordinate Court, Harur and transfer the same to the file of Family Court, Salem to be tried along M.C.No.53 of 2017.

2. It is stated the petitioner-wife has filed a maintenance petition in M.C.No.53 of 2017 before the Family Court, Salem, in which, the respondent/husband has been attending.

3. In paragraph 4 of the affidavit, it is stated that the petitioner/wife is living in Salem with her mother and younger sister and it would be difficult for her to travel from Salem to Harur, without any male assistance. Further, it is stated that she does not have any permanent source of income to meet her travelling expenses for attending each and every hearing at Harur. Hence, she prays for transfer.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent-husband is served with notice both privately as well as through Court and his name has been printed in the cause

list, he has not entered appearance either in person or through counsel.

5. As the respondent-husband has already been appearing before the Family Court, Salem for contesting the maintenance case in M.C.No.59 of 2017 filed by the wife, it would not be prejudicial for him to appear before the Court, if the said H.M.O.P.67 of 2017 is transferred.

6. Considering the averments made in the affidavit and also Section 19(iii-a) of the Hindu Marriage Act, gives preference to the wife where she has resides, this Court deems it fit to transfer the H.M.O.P.No.67 of 2017 from the file of Sub Court, Harur to the file of Family Court, Salem, to be heard along with M.C.No.53 of 2017.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.67 of 2017 pending on the file of Subordinate Court, Harur is withdrawn and transferred to the file of Family Court, Salem to be tried along with M.C.No.53 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Subordinate Judge,  
Harur.

2. The Family Judge,  
Salem.

+1 cc to Mr.B.R.Shankaralingam Advocate sr 20388

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