

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.1096 of 2017
and C.M.P.No.22640 of 2017

N.Sowmya

... Petitioner

versus

A.Sridhar

... Respondent

Prayer:- This Petition is filed under Section 24 of C.P.C. praying to withdraw and transfer the H.M.O.P.No.132 of 2017 on the file of the Sub Court, Gobichettipalayam to the file of Additional Family Court, Coimbatore to be tried along with M.C.No.94 of 2017.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Served-No appearance

O R D E R

This transfer petition is filed by the petitioner/wife in the matrimonial proceedings seeking to withdraw H.M.O.P.No.132 of 2017, pending on the file of the Subordinate Court, Gobichettipalayam and transfer the same to the file of the Additional Family Court, Coimbatore, to be tried along with M.C.No.94 of 2017.

2. Earlier, the petitioner/wife had filed M.C.No.94 of 2017 under Section 125(1)(a) of Cr.P.C for maintenance, before the Additional Family Court, Coimbatore. Subsequently, the respondent/husband had filed H.M.O.P.No.132 of 2017 under Section 9 of the Hindu Marriage Act for restitution conjugal rights, before the Subordinate Court, Gobichettipalayam.

3. It is stated in the affidavit that the petitioner/wife is living in Coimbatore with her parents and she expressed difficulty to travel to Gobichettipalayam for each hearing, which is nearly 200 kms. up and down. Hence, the transfer is sought for.

4. Heard the learned counsel for the petitioner. Though the respondent/husband has been served with notice, there is no representation either in person or through counsel.

5. As the respondent/husband is already attending the hearing in Family Court, Coimbatore for the M.C., it would not be prejudicial for him to appear in the same Court, if the O.P. is transferred. Considering the above read with Section 19(iii-a) of the Hindu Marriage Act, which speaks that the convenience of the wife is paramount, this Court is inclined to transfer H.M.O.P.No.132 of 2017 from the file of the Subordinate Court, Gobichettipalayam to the file of the Additional Family Court, Coimbatore, where M.C.No.94 of 2017 is pending.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.132 of 2017, pending on the file of the Subordinate Court, Gobichettipalayam is transferred to the file of the Additional Family Court, Coimbatore, to be tried along with M.C.No.94 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

1.The Subordinate Judge,
Gobichettipalayam

2.The Additional Family Judge,
Coimbatore.

+1 CC to Mr. Abrar Md Abdullah, Advocate sr 23329.

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PA(CO)
SP(13/04/2018)

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