

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.226 of 2017
and C.M.P.No.4033 of 2017

Suganya

... Petitioner

Versus

Vimal

... Respondent

Prayer: The petition filed under Section 24 of the Civil Procedure Code praying to withdraw the H.M.O.P.No.267 of 2016 on the file of the Sub Court, Namakkal and to transfer the same to the Family Court, Erode.

For Petitioner : Mr.N.Manokaran
For Respondent : No Appearance

O R D E R

The wife has filed the above transfer civil miscellaneous petition seeking to withdraw H.M.O.P.No.267 of 2016 pending on the file of the Sub Court, Namakkal, filed by the respondent / husband under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and transfer the same to the file of the Family Court, Erode.

2. In the affidavit filed in support of the petition, it is stated by the petitioner that she is living with her parents along with her minor son in Erode and has no independent source of income to lead the family. The M.C. filed for maintenance before the Family Court, Erode is also pending. It is also stated that she is unable to travel 150 kms up and down for each hearing at Namakkal. It is further stated in the affidavit that the amendment to Section 19(iii-a) of the Hindu Marriage Act, 1955 gives the special privilege for filing or defending the case where the wife resides on the date of presentation of the petition.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. The respondent, despite service of notice as early as on 11.03.2017, has not entered appearance either in person or through counsel.

5. As the respondent-husband is appearing before the Family Court, Erode for the maintenance case, it would not be prejudicial for him, if the matter is transferred to Family Court, Erode.

5. Considering the averments made in the affidavit filed in support of the petition and Section 19(iii-a) of the Hindu Marriage Act, where the wife has been given privilege of filing the petition wherever she is residing, this Court feels it appropriate to transfer H.M.O.P.No.267 of 2016 from the file of Sub Court, Namakkal to the file of Family Court, Erode.

6. Accordingly, the transfer petition is allowed and H.M.O.P.No.267 of 2016 pending on the file of Sub Court, Namakkal shall stand withdrawn and transferred the same to the file of Family Court, Erode. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

srn
To

- 1.The Sub Court,Namakkal.
- 2.The Family Court, Erode.

सत्यमेव जयते

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KAN(CO)
SP(09/02/2018)

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