

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:02.03.2018
C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.419 of 2017
and C.M.P.No.8743 of 2017

C.Ruchitha

.. Petitioner/Respondent

-Vs-

S.Vivek

.. Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw the H.M.O.P.No.230 of 2016 from the file of the Additional Family Court, Coimbatore to the Family Court, Salem.

For petitioner ... Mr.K.Selvaraj
For Respondent ... Mr.A.Deivasigamani

O R D E R

The petitioner-wife has filed this transfer petition seeking transfer of H.M.O.P.No.230 of 2016 from the file of the Additional Family Court, Coimbatore to the file of the Family Court, Salem.

2. The respondent-husband has filed the above H.M.O.P.No.230 of 2016 under Section 12 of the Indian Divorce Act on the file of the Additional Family Court, Coimbatore for dissolution of marriage.

3. It is stated in the affidavit filed in support of the petition that the petitioner is a permanent resident of Salem and is residing in her parents house. It is further stated that the petitioner finds it very difficult to travel alone 300 kms to and from from Salem to Coimbatore to attend each of the hearing. As the said H.M.O.P is pending before the Family Court, Coimbatore, the appearance of the party is mandatory. It is also stated that the respondent-husband is away from the Country and he is represented only by his Power of Attorney. Therefore, if the said H.M.O.P is transferred to Salem, it would not be prejudicial to the respondent-husband. Hence, she seeks for transfer.

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

5. Considering the convenience of both the parties and the fact that Section 19(iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, this Court deems it fit to transfer the said H.M.O.P.No.230 of 2016 pending on the file of the Additional Family Court, Coimbatore to the file of the Family Court, Salem.

6. Considering the fact that the respondent-husband is living in Canada and that his father is his Power of Attorney, who is a Senior citizen, the appearance of the respondent-husband as well as the Power of Attorney, is dispensed with till the commencement of trial and the respondent has to be present before the Court and subject himself for trial.

7. Accordingly, the Tr.C.M.P is allowed and H.M.O.P.No.230 of 2016 pending on the file of the Additional Family Coimbatore is withdrawn and transferred to the file of the Family Court, Salem. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

srn
To

1. The Judge, Additional Family Court, Coimbatore
2. The Judge, Family Court, Salem.

+1cc to Mr.A.Deivasigamani, Advocate Sr.No.16487
+1cc to K.Selvaraj, Advoate Sr.No.16211

RJ(CO)
sm:26.3.2018

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