

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.03.2018
CORAM
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA
TR.CMP.Nos.421 and 525 of 2017
and
C.M.P.Nos.8763 and 10779 of 2017

V.S.Keerthana .. Petitioner in both Tr.C.M.Ps
vs

Bharat Sundarraman .. Respondent in both Tr.C.M.Ps

Prayer in Tr.C.M.P.No.421 of 2017: Transfer Civil Miscellaneous petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in O.P.No.201 of 2017 pending on the file of Principal Family Court, Chennai and transfer the same to the Sub Court, Erode.

Prayer in Tr.C.M.P.No.525 of 2017: Transfer Civil Miscellaneous petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in O.P.No.1903 of 2017 pending on the file of Principal Family Court, Chennai and transfer the same to the Family Court, Erode.

For Petitioner : Mr.K.C.Karl Marx
in both Tr.C.M.Ps

For Respondent : Mr.Suchit Anant Palande
in both Tr.C.M.Ps

COMMON ORDER

Transfer Civil Miscellaneous Petition No.421 of 2017 is filed by the petitioner-wife seeking to withdraw the O.P.No.201 of 2017 pending on the file of Principal Family Court, Chennai and transfer the same to the file of the Sub Court, Erode.

Transfer Civil Miscellaneous Petition No.525 of 2017 is filed by the petitioner-wife seeking to withdraw the O.P.No.1903 of 2017 pending on the file of Principal Family Court, Chennai and transfer the same to the file of the Family Court, Erode.

2. The petitioner-wife has filed O.P.No.201 of 2017 under Section 9 of the Hindu Marriage Act, 1955 on the file of the Principal Family Court, Chennai for restitution of conjugal rights as per the advise given to her earlier by the Counsel. In the meanwhile, the respondent-husband has filed O.P.No.1903 of 2017 under Section 13(1) (i-a) of the Hindu Marriage Act on the file of the Principal Family Court, Chennai for dissolution of marriage held between the petitioner and the respondent on 01.12.2014.

3. It is stated in the affidavit that out of the wedlock the wife has given birth to twin children, who are now two years old. She has been living with her parents in Erode along with her kids. She has also stated that it is absolutely difficult for her to leave the children and step out of the house, much less, travel to Chennai for each of the hearing. Hence, the transfer is sought for.

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

5. Learned counsel for the respondent-husband vehemently opposed the transfer stating that the respondent-husband is living in Kakinada, Andhra Pradesh and it would be difficult for him to take a long journey to Erode to attend the hearing.

6. As the respondent-husband feels it difficult to travel from Kakinada to Erode, it will be more difficult for the petitioner-wife to travel along with two children to Kakinada, even though the respondent may offer her the conveyance. Since both the O.Ps are filed for different reliefs, if they are tried independent of each other, it would lead to conflict in decisions.

7. Considering the averments made in the affidavit and taking into account Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides and also there will be a conflict in decisions, if the above said O.Ps. are tried in two different places, this Court feels it appropriate to transfer O.P.No.201 of 2017 and O.P.No.1903 of 2017 pending on the file of the Principal Family Court, Chennai to the file of the Family Court, Erode.

8. Accordingly, the Transfer Civil Miscellaneous Petitions are allowed and O.P.No.201 of 2017 and O.P.No.1903 of 2017 pending on the file of the Principal Family Court, Chennai are ordered to be withdrawn and transferred to the file of the Family Court, Erode. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Principal Family Court, Chennai.

2. The Family Court, Erode.

+1 cc to M/s.Suchit Anant Palande Advocate sr 19935

+1 cc to M/s.K.C.Karl Marx Advocate sr 1999

TR.CMP.Nos.421 and 525 of 2017

and

C.M.P.Nos.8763 and 10779 of 2017

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