

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:04.01.2018
CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.444 of 2017
and
C.M.P.No.9102 of 2017

Hemalatha ... Petitioner

vs.

Saravanakumar ... Respondent

Prayer: The petition is filed under Section 24 of C.P.C. praying to withdraw the proceedings pending before the Sub Court, Sathyamangalam in H.M.O.P.No.14 of 2017 and transfer the same to the Family Court, Coimbatore to be tried along with H.M.O.P.No.549 of 2017.

For Petitioner : Mr.J.Antony Jesus

For Respondent : Mr.C.S.Saravanan

O R D E R

The petitioner/wife has filed the above Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.14 of 2017 pending on the file of the Subordinate Court, Sathyamangalam and transfer the same to the Family Court, Coimbatore to be tried along with H.M.O.P.No.549 of 2017.

2. H.M.O.P.No.14 of 2017 is filed by the respondent-husband under Section 13(1) (i-a) & (i-b) of the Hindu Marriage Act, before the Subordinate Judge, Sathyamangalam for dissolution of marriage solemnized between the petitioner and respondent on 14.02.2016. The petitioner-wife has also filed H.M.O.P.No.549 of 2017 under Section 9 of the Hindu Marriage Act on the file of the Family Court, Coimbatore for restitution of conjugal rights.

3. It is stated in the affidavit filed in support of the petition that the petitioner/wife is residing with her parents and is dependent on her parents even for her livelihood. It would be difficult for her to attend the Court hearings at Erode, which is more than 100 kms away from Coimbatore and that her ailing and aged parents also could not accompany her. She feels that being a woman, she could not travel alone from Coimbatore to Erode. It is also stated that the petitioner does not have any other support apart from her parents and further, she could not afford expenses to go to Erode for each hearing. Hence, she prays 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. Learned counsel appearing for the respondent-husband vehemently opposed for transfer of H.M.O.P.No.14 of 2017 to Coimbatore stating that it is very unsafe for the respondent-husband to travel to Coimbatore, as he apprehends danger in the hands of the petitioner-wife.

6. However, admittedly, the respondent-husband is living in Dubai and he has to travel to Court, which ever may be the place. As the wife has already initiated a petition under Section 9 of the Hindu Marriage Act before the Family Court, Coimbatore, the said H.M.O.P.No.14 of 2017, pending before the Subordinate Judge, Sathymangalam may be transferred to Coimbatore.

7. The appearance of the respondent-husband, till the commencement of the trial, is dispensed with. It would be sufficient, if he appears on commencement of the trial or otherwise whenever the situation warrants.

8. Considering the submissions made by the learned counsel for both sides, the Transfer Civil Miscellaneous Petition is allowed by withdrawing H.M.O.P.No.14 of 2017, pending on the file of the Sub Court, Sathyamangalam and transferring the same to the file of Family Court, Coimbatore to be tried along with H.M.O.P.No.549 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Subordinate Judge,
Sathyamangalam

2. The Family Court Judge, Family Court,
Coimbatore.

+1cc to Mr.J.Antony Jesus, Advocate SR.No.1024

+1cc to Mr.C.S.Saravanan, Advocate SR.No.444

sm:2.2.2018

Tr.C.M.P.No.444 of 2017
and
C.M.P.No.9102 of 2017