

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.556 of 2017
and C.M.P.No.11439 of 2017

Sreemathi ... Petitioner/Respondent

versus

Kumaravelu ... Respondent/Petitioner

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.91 of 2017 on the file of the Principal sub Judge, Karur and transfer the same to the Family Court at Coimbatore in which already M.C.No.99 of 2017 is pending.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.N.Manokaran

ORDER

The petitioner/wife in the matrimonial dispute has filed this transfer Civil Miscellaneous Petition seeking transfer of H.M.O.P.No.91 of 2017, pending on the file of Principal Sub Court, Karur to the file of Family Court, Coimbatore, to be tried along with M.C.No.99 of 2017.

2. The respondent/husband has filed H.M.O.P.No.91 of 2017 for divorce under Section 13(1)(ia) of the Hindu Marriage Act, before the Principal Sub Court, Karur. The petitioner/wife has filed M.C.No.99 of 2017 for maintenance under Section 125(1)(a) (b) of Cr.P.C. before the Family Court, Coimbatore.

3. It is stated in paragraph 9 of the affidavit filed in support of the petition that the petitioner is living with her aged parents and the minor child aged about 1 year is also with the custody of the petitioner and she has got no financial support. Hence, the petitioner/wife has filed maintenance petition before the Family Court, Coimbatore. The respondent/husband has already been attending the hearings in the said Court and till now he has not taken any steps to get it

transferred to any other Court. As the husband is already prosecuting the maintenance case before the Family Court in Coimbatore, it would not be prejudicial for him to prosecute H.M.O.P. that may be transferred from Principal Sub Court, Karur. It is relevant to point out that Section 19(iii) of the Hindu Marriage Act speaks that the convenience of the wife is paramount.

4. Heard the learned counsel for the petitioner as well as learned counsel for the respondent.

5. The learned counsel for the respondent/husband contended that there is a threat to life of the respondent as he was assaulted in earlier occasions, whenever he went to Coimbatore. It is also stated that he had lodged FIR with regard to the same. Since the learned counsel for the respondent expressed objection on account of danger to the life of the respondent/husband, this Court is of the view that the appearance of the respondent/husband may be dispensed with till the time of the commencement of the trial. Accordingly, the appearance of the respondent/husband is dispensed with before the Family Court, Coimbatore till the commencement of the trial. In view of the above, H.M.O.P.No.91 of 2017 could be transferred to Family Court, Coimbatore, where M.C.No.99 of 2017 filed by the petitioner/wife is already pending.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.91 of 2017, pending on the file of Principal Sub Court, Karur shall stand withdrawn and transferred to the file of Family Court, Coimbatore, to be tried along with M.C.No.99 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

rsi

To

1. The Principal Sub Judge,
Karur.

2. The Family Judge,
Coimbatore.

+lcc to Mr.C.S.Saravanan, Advocate SR.No.6838
+lcc to Mr.N.Manokaran, Advocate SR.No.6851

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SSD(CO)
GN(17/02/2018)



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