

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.575 of 2017

and

C.M.P.No.12068 of 2017

J.Geetha alias Nicky

... Petitioner

Versus

Rajinikanth

Represented by Power of Attorney

Mr.Rajagopal

.... Respondent

Prayer: The petition filed under Section 24 of the Civil Procedure Code praying to withdraw and transfer the H.M.O.P.No.19 of 2016 from II Additional Subordinate Court, Coimbatore to the Principal Judge, Family Court at Chennai.

For Petitioner : Mr.S.Arokia Maniraj

For Respondent : No appearance

ORDER

This is a transfer petition filed by the wife seeking to withdraw H.M.O.P.No.19 of 2016 pending on the file of the II Additional Sub Court, Coimbatore, filed by the respondent / husband under Section 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act for dissolution of marriage and transfer the same to the file of the Principal Judge, Family Court, Chennai.

2. It is stated that earlier, the wife had filed F.C.O.P.No.3316 of 2014 on the file of the Principal Judge, Family Court, Chennai for restitution of conjugal rights and the same was allowed on 28.10.2015. However, the parties have not re-united. It is also stated that the wife had also filed a maintenance case in M.C.No.387 of 2014, which is pending on the file of the I Additional Family Court, Chennai.

3. In the affidavit filed in support of the petition, it is stated by the petitioner that she is living in Chennai with her parents and taking care of the minor child. Further, it

would be difficult for her to go and attend each of the hearing at Coimbatore, which is around 550 kms from Chennai. It is also stated that the respondent-husband, who is already away from India and prosecuting the case through his Power of Attorney, can continue the same, even after the said H.M.O.P is transferred to Chennai.

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

5. The respondent, though has been served with notice and has engaged a Counsel to appear on his behalf, there is no representation for the respondent for more than two occasions. Even today, when the matter is posted under the caption 'for orders', there is no representation for the respondent either in person or through counsel.

6. Admittedly, the respondent/husband is living in Canada and has been prosecuting the above said O.P. through his Power of Attorney. As already the maintenance case is pending before the I Additional Family Court, Chennai, where the respondent/husband has to appear, it would not be prejudicial to the husband, if the above H.M.O.P is also transferred to the same Court.

7. Considering the averments made in the affidavit filed in support of the petition 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, this Court feels it appropriate to transfer H.M.O.P.No.19 of 2016 from the file of II Additional Sub Judge, Coimbatore to the file of I Additional Family Court, Chennai, to be heard along with M.C.No.387 of 2014, which is already pending.

8. Accordingly, the transfer petition is allowed and H.M.O.P.No.19 of 2016 pending on the file of the II Additional Sub Judge, Coimbatore, shall stand withdrawn and transferred to the file of the I Additional Family Court, Chennai, to be tried along with M.C.No.387 of 2014. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

srn

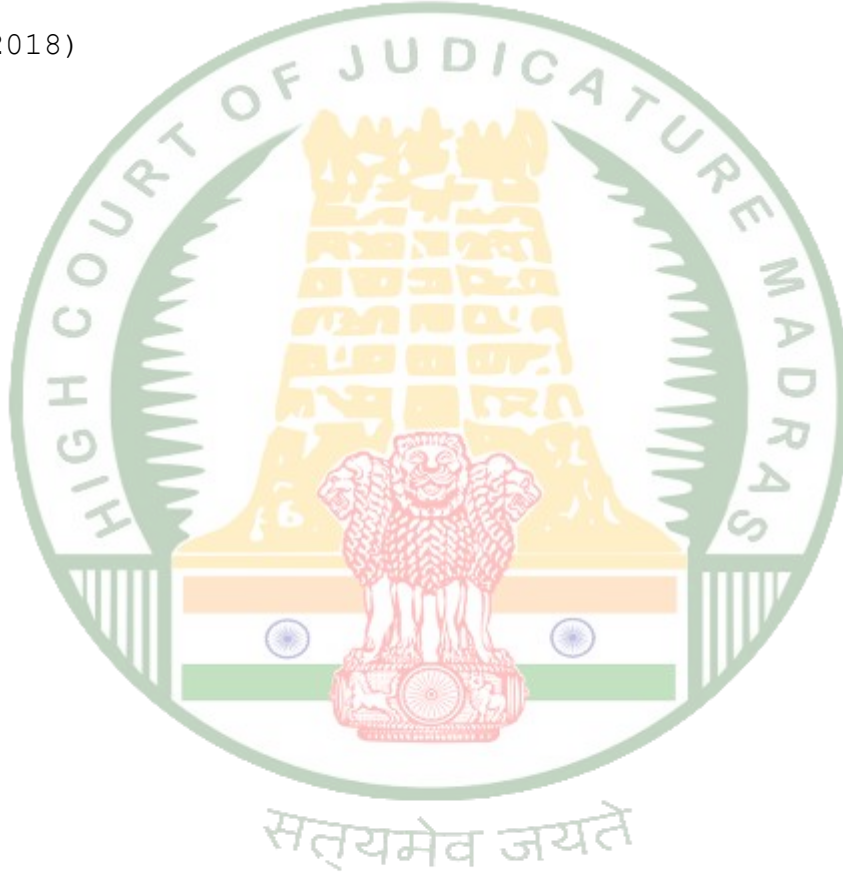
To

1.The Additional Subordinate Court, Coimbatore

2.The Principal Judge, Family Court, Chennai.

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LRS (CO)
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