

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.03.2018
CORAM :
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
Tr.C.M.P. No.686 of 2017
and C.M.P.No.13543 of 2017

Vidhya

... Petitioner

Vs.

P.Prabakaran

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C. praying to withdraw the case in H.M.O.P.No.76 of 2017 pending before the Subordinate Court, Attur and transfer the same to the Subordinate Court, Srivilliputhur.

For Petitioner : Mr.E. Rajthilak
For Respondent : Mr.S.Kaithamalaikumaran

O R D E R

The wife in a matrimonial proceedings has filed the above transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.76 of 2017 pending on the file of the Sub Court, Attur and transfer the same to the file of the Sub Court, Srivilliputhur.

2. The respondent-husband has filed the above H.M.O.P.No.76 of 2017 under Section 13(1) (i-a) of the Hindu Marriage Act on the file of the Sub Court, Attur for dissolution of marriage solemnized between the petitioner and the respondent on 23.02.2015.

3. It is stated in the affidavit filed in support of the petition that the petitioner-wife is having 1 1/2 years minor child in her custody and she is employed in Infosys, Mysore. The parents of the petitioner is living in Srivilliputhur. Therefore, if the matter is transferred to Sub Court, Srivilliputhur, it would be easy for the petitioner-wife to leave the child under the care of her parents and attend the Court proceedings. Admittedly, the respondent-husband is living in Australia. Though the said H.M.O.P was filed by him, he has not even attended the Court atleast once to contest the case. Hence, she sought 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 seriously opposed to transfer the said H.M.O.P from Attur to Srivilliputhur.

6. Though the learned counsel appearing for the respondent-husband vehemently opposed the transfer, this Court taking into consideration the fact that the respondent-husband is living outside the country, he may not have any difficulty in contesting the case, be it Attur or Srivilliputhur, and also taking into account that Section 19(iii-a) of the Hindu Marriage Act gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P.No.76 of 2017 from the file of Sub Court, Attur to the file of Sub Court, Srivilliputhur.

7. However, considering the fact that both the petitioner-wife as well as the respondent-husband are living outside Srivilliputhur, their appearance before the Court is dispensed with till the commencement of trial and the parties are directed to be present once the trial has commenced.

8. With the above directions, the transfer petition is disposed of. H.M.O.P.No.76 of 2017 pending on the file of the Subordinate Court, Attur is withdrawn and transferred the same to the file of Subordinate Court, Srivilliputhur. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Sub Judge, Attur.

2. The Sub Judge, Srivilliputhur.

+1 cc to Mr.E.RajThilak Advocate sr 16964

+1 cc to Mr.S.Kaithamalai kumaran Advocate sr 16898

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