

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:20.03.2018
CORAM
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
Tr.C.M.P. No.712 of 2017
and C.M.P.No.14457 of 2017

M. Gomathi

... Petitioner

versus

V. Soundararajan

... Respondent

Prayer:- The Petition is filed under Section 24 of Civil Procedure Code praying to withdraw and transfer the petition praying for restitution of conjugal rights pending before Hon'ble III Additional Family Court, Chennai in H.M.O.P.No.2329 of 2017 filed by the respondent and transfer the same to the Hon'ble Family Court, Tiruvallur.

For Petitioner : Ms.R.Mahalakshmi

For Respondent : Mr.B.Harikrishnan

O R D E R

The petitioner/wife in the matrimonial proceedings has preferred this Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.2329 of 2017 pending on the file of the III Additional Family Court, Chennai and transfer the same to the file of the Family Court, Tiruvallur.

2. The respondent/husband had filed H.M.O.P.No.2329 of 2017 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights before the III Additional Family Court, Chennai. The petitioner/wife had filed H.M.O.P.No.72 of 2017 under Section 13 (1) (i-a) of the Hindu Marriage Act for divorce before the Family Court, Tiruvallur.

3. In the affidavit filed in support of the transfer petition, it is stated that the petitioner/wife is permanently residing in Tiruvallur and it will be easy for her to continue the case in Tiruvallur, by getting transfer of H.M.O.P.No.2329 of 2017 from III Additional Family Court, Chennai to Family Court, Tiruvallur and trying them both jointly.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. As both petitions are mutually contradictory, any decision that may be passed independent of each other will lead to a conflict of decisions. Considering the convenience of the wife and also Section 19(iii-a) of the Hindu Marriage

Act, which gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P.No.2329 of 2017 from III Additional Family Court, Chennai to Family Court, Tiruvallur, where H.M.O.P.No.72 of 2017 is already pending.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.2329 of 2017, pending on the file of III Additional Family Court, Chennai is transferred to the file of Family Court, Tiruvallur, to be tried along with H.M.O.P.No.72 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(ccc)

//True Copy//

Sub Assistant Registrar

rsi
To

1. The III Additional Judge,
Family Court, Chennai.
2. The Family Court Judge,
Tiruvallur.

+1cc to Mrs.R.Mahalakshmi, Advocate Sr.No.20752

SVI (CO)
sm:11.4.2018

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