

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.727 of 2017

Pavithra Raghavan

... Petitioner

versus

S. Venkatramanan

... Respondent

Prayer:- The Petition is filed under Section 24 of Civil Procedure Code praying to withdraw H.M.O.P.No.699 of 2016 pending on the file of the Sub Court, Tambaram and to transfer and try in the O.P.No.1097 of 2017 on the file of Family Court, Coimbatore.

For Petitioner : Mr.B.A.Prakash

For Respondent : Ms.Srividhya Aravindan

O R D E R

The petitioner/wife in the matrimonial proceedings has filed this Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.699 of 2016, pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Family Court, Coimbatore, to be tried along with H.M.O.P.No.1097 of 2017.

2. The respondent/husband had filed H.M.O.P.No.699 of 2016 under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act for divorce before the Subordinate Judge, Tambaram. Whereas, the petitioner/wife had filed H.M.O.P.No.1097 of 2017 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights before the Family Court, Coimbatore.

3. In paragraph 13 of the affidavit it is stated by the petitioner/wife that she got promotion and transferred to Coimbatore. She also tried to intimate about the shifting of the residence to the respondent/husband but in vain. It is also stated in paragraph 16 of the affidavit that she is working as an Assistant Bank Manager in Central Bank of India, Coimbatore and it would not be possible for her to travel to Chennai for prosecuting the case.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent. The learned counsel for the respondent expressed apprehension that in the event of transfer in her job, she cannot ask for yet another transfer of the O.P. The petitioner/wife had filed an affidavit dated 22.03.2018, wherein, she has stated that she would not seek further transfer of the divorce petition to any other Court, even she is subsequently transferred in her job. The said undertaking is recorded.

5. As Section 19(iii-a) of the Hindu Marriage Act, which mandates that the convenience of the wife has to be considered and also to avoid any conflict of decisions, it would be appropriate to try both the O.Ps. jointly. In view of the above, this Court is inclined to transfer H.M.O.P.No.699 of 2016 from the file of the Subordinate Court, Tambaram to the file of the Family Court, Coimbatore.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.699 of 2016, pending on the file of Subordinate Court, Tambaram is transferred to the file of Family Court, Coimbatore, to be tried along with H.M.O.P.No.1097 of 2017. No Costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge, Tambaram.
2. The Family Court, Coimbatore.

+2cc to Mr.M.Aravindan, Advocate, S.R.No.22708

Tr.C.M.P.No.727 of 2017

PA(CO)

RRK(25/04/2018)