

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.732 of 2017
and C.M.P.No.14947 of 2017

Vasanthi

... Petitioner/Respondent

Vs.

G.Prabhu

... Respondent/Petitioner

Prayer:- Petition filed under Section 24 of C.P.C., praying to withdraw the divorce petition pending in H.M.O.P.No.214 of 2017 on the file of the Subordinate Court, Namakkal and transfer the same to the file of the Additional Family Court, Coimbatore.

For Petitioner : Mr.A.Saranraj

For Respondent : Served-No Appearance

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.214 of 2017 pending on the file of the Subordinate Court, Namakkal, and transfer the same to the file of the Additional Family Court, Coimbatore.

2. It is stated that the petitioner/wife has filed H.M.O.P.No.356 of 2016 under Section 13(1) (i-a) of the Hindu Marriage Act on the file of the Additional Family Court, Coimbatore for dissolution of marriage held between the petitioner and respondent on 02.03.2015. The respondent/husband has also filed H.M.O.P.No.214 of 2017 under Section 9 of the Hindu Marriage Act, before the Subordinate Court, Namakkal for restitution of conjugal rights.

3. In paragraph 8 of the affidavit filed in support of the petition, the petitioner/wife has stated that she is living at Coimbatore and financially not in a position to be accompanied by her father or any other family member to attend the hearings of the case at Namakkal. Hence, she sought for transfer.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent is served with notice and his name has been printed in the cause list, he has not appeared either in person or through counsel.

5. Considering the averments made in the affidavit 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 and also there will be a conflict in decisions, if the above said O.Ps. are tried in two different places, this Court feels it appropriate to transfer H.M.O.P.No.214 of 2017 from the file of Subordinate Court, Namakkal to the file of Additional Family Court, Coimbatore, to be tried along with H.M.O.P.No.356 of 2016, which is already pending.

6. Accordingly, the transfer petition is allowed and H.M.O.P.No.214 of 2017 pending on the file of Subordinate Court, Namakkal, shall stand withdrawn and transferred to the file of the Additional Family Court, Coimbatore, to be tried along with H.M.O.P.No.356 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

srn

To

1.The Sub Judge,
The Subordinate Court,
Namakkal

2.The Additional Family Court Judge,
The Additional Family Court,
Coimbatore.

+1cc to Mr.A.Saranraj, Advocate SR.No.8774

Tr.C.M.P. No.732 of 2017
and C.M.P.No.14947 of 2017

GJ(CO)
GN(26/02/2018)