

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.764 of 2017

and

C.M.P.No.15612 of 2017

A.Saranya Petitioner/Respondent

Versus

S.Dhananjayan ... Respondent/Petitioner

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the H.M.O.P.No.41 of 2017 on the file of the Subordinate Judge, Tiruttani and transfer the same to the Family Court, Erode.

For Petitioner : Mr.A.J.Mohammed Kasim
For Respondents : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the case in H.M.O.P.No.41 of 2017, filed by the respondent from the file of Sub Court, Tiruttani and transfer the same to the file of Family Court, Erode.

2. The respondent-husband has filed the above H.M.O.P.No.41 of 2017 before the Subordinate Judge, Tiruttani for dissolution of marriage held between the petitioner and respondent on 01.09.2016 and 08.09.2016.

3. In paragraphs 8 and 9 of the affidavit filed in support of this petition, it is stated that the petitioner-wife is living with her aged parents in Karungalapalayam at Erode. It is also stated that since the distance between Erode and Tirutani is about 200 kms, the petitioner finds it difficult to attend each and every hearing of the case and moreover she has to care of her aged parents. It is also stated that the respondent-husband's native place is Tirutani and apprehends

danger to her life, if she goes to attend the Court hearings at Tirutani. Moreover, the respondent-husband is working in Chennai and he has filed the said H.M.O.P only to harass the petitioner. Hence, she sought for transfer.

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

5. Though the respondent is served with notice and entered appearance through his counsel, there was no representation on 22.02.2018. Even today, when the matter is listed, though the counsel's name is printed in the cause list, there is no representation for the respondent either in person or through counsel.

6. Considering the facts and circumstances of the case and the fact that Section 19(iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, this Court deems it fit to transfer the said H.M.O.P.No.41 of 2017 pending on the file of Subordinate Court, Tiruttani to the file of the Family Court, Erode.

5. Accordingly, this petition is allowed and the proceedings pending in H.M.O.P.No.41 of 2017, pending on the file of Subordinate Court, Tiruttani is withdrawn and transferred to the Family Court at Erode. No costs. Consequently, the Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

arr
To

1. The Sub Judge Tirutani

2. The Presiding Judge,
The Family Court, Erode

+1 cc to Mr.C.Saravanan Advocate sr 14609

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