

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.782 of 2017
and
C.M.P.No.15900 of 2017

R.Desaghanavi Petitioner/Respondent
Versus
V.Sethu Respondent/Petitioner

Prayer: The petition filed under Section 24 of the Civil Procedure Code praying to withdraw the F.C.O.P.No.253 of 2017 on the file of the Family Court, Erode and transfer the same to the Family Court, Salem District.

For Petitioner : Mr.N.Chinnaraj
For Respondent : Mr.J.Ramakrishnan

O R D E R

This is a transfer petition filed by the wife seeking to withdraw F.C.O.P.No.253 of 2017 pending on the file of the Family Court, Erode, filed by the respondent / husband under Section 13(1)(i-a) of the Hindu Marriage Act for divorce and to transfer the same to the file of the Family Court, Salem.

2. It is stated in the affidavit filed in support of the petition that she is a B.D.S graduate. After marriage, she had opened a Dental Clinic in Erode. However, it seems that the respondent had not allowed her to do the clinical practice and compelled to do farming works. Hence, she was unable to concentrate on her profession. She has also narrated about all ill-treatments extended to her by the respondent and his family members. Since the petitioner's mother is aged 63 years and she is also taking treatment in hospital, it is very difficult for the petitioner to appear before the Family Court, Erode regularly. It is also alleged that the respondent and his family members demanded dowry, though the petitioner has filed M.C.No.40 of 2017 before the Family Court, Salem. Further, the petitioner apprehends danger to her life, if she goes to attend

the hearings at Erode. Hence, she sought for transfer.

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

4. Learned counsel for the respondent has filed counter affidavit stating that the reasons assigned by the petitioner in the affidavit for transferring the said F.C.O.P are not bonafide and that she has made false allegations against the respondent-husband for the purpose of transfer. It is stated in the counter affidavit, among other things, that since the parents of the husband are senior citizens, he has to take care of them and it would be difficult for him to travel for each and every hearings at Salem, which is far away from Erode.

5. It is stated that the respondent-husband has filed a Criminal Original Petition before this Court for transferring the said M.C.No.40 of 2012 filed by the wife and the same is pending and he has also obtained an order of interim stay.

6. Be that as it may. Considering the averments made in the affidavit filed in support of the petition 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, this Court feels it appropriate to transfer F.C.O.P.No.253 of 2017 from the file of the Family Court, Erode to the file of the Family Court, Salem, to be heard along with M.C.No.40 of 2012, which is already pending.

7. Accordingly, the transfer petition is allowed and F.C.O.P.No.253 of 2017 pending on the file of the Family Court, Erode, is withdrawn and transferred to the file of the Family Court, Salem, to be tried along with M.C.No.40 of 2012. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

srn

To

1.The Judge, Family Court, Erode

2.The Judge, Family Court, Salem

+1 Cc to Mr.N. Chinnaraj, Advocate sr 13186.
+1 CC to Mr.P. Sivakumar, Advocate sr 13480.

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SP(07/03/2018)



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