

HIGH COURT OF MADRAS
C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.797 of 2017
and
C.M.P.No.16191 of 2017

B.Sathya

.. Petitioner/Respondent

-Vs-

P.Kishore Kumar

.. Respondent/petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.137 of 2016 pending before the Principal Subordinate Judge, Villupuram and transfer the same to the file of the Subordinate Judge, Poonamallee to be heard and tried along with H.M.O.P.No.41 of 2017.

For petitioner Mr.P.Shivaraj Mohan

For Respondent ... Served-No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition is zfiled seeking to withdraw H.M.O.P.No.137 of 2016 filed by the husband pending on the file of the Subordinate Court, Villupuram and to transfer the same to the file of the Subordinate Court, Poonamallee, to be tried along with H.M.O.P.No.41 of 2017 filed by the wife.

2. H.M.O.P.No. 137 of 2016 is filed by the respondent-husband under Section 13(1)(i-a) of the Hindu Marriage Act on the file of the Subordinate Court, Villupuram for divorce. The petitioner-wife has also filed H.M.O.P.No.41 of 2017 under Section 13(1) (i-a) of the Hindu Marriage Act for dissolution of marriage held between the petitioner and the respondent on 26.08.2010.

3. It is the grievance of the petitioner that she is now residing in Avadi, Chennai, along with her aged parents and minor son. It is stated that she has to travel along with her minor son from Avadi to Villupuram to attend the hearings at Villupuram, which is more than 190 kms without help of any male

members. It is further stated that she apprehends danger in the hands of the respondent-husband and his relatives. Hence, she sought for transfer.

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

5. It is represented by the learned counsel for the petitioner that the private notice taken to the respondent had returned with an endorsement "refused". It is also further stated that though the petitioner as well as the respondent have sought for the same relief of divorce, the respondent-husband has not been appearing for giving mutual consent for divorce. Despite service of notice and the name of the respondent being printed in the cause list, today there is no representation for the respondent either in person or through counsel.

6. Considering the fact that both the parties have sought for the same relief and even as per Section 19 (iii-a) of the Hindu Marriage Act, the convenience of the wife is of paramount importance, it would be appropriate to transfer the H.M.O.P.No.137 of 2016 pending on the file of the Subordinate Judge, Villupuram to Subordinate Court, Poonamallee to be tried by joint trial along with H.M.O.P.No.41 of 2017, which would also avoid conflict of decisions.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.137 of 2016 pending on the file of the Subordinate Court, Villupuram shall stand withdrawn and transferred to the file of the Subordinate Court, Poonamallee to be tried along with H.M.O.P.No.41 of 2017. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge, Villupuram
2. The Subordinate Judge, Poonamallee
3. The Section Officer, VRC Section, High Court of Madras
4. Mr. P. Shivaraj Mohan, Advocate, Sr.776

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kk(CO)
kas(03/02/2018)