

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.840 of 2017

and C.M.P.No.17546 of 2017

K. Hemavathi

... Petitioner

versus

S. Gopinath

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.85 of 2017 on the file of the Subordinate Court at Arakkonam, Vellore District and transfer to the file of V Additional Family Court at Chennai.

For Petitioner : Mr.R.Karthick Sevugapperumal

For Respondent : Mr.A.M.Ravichandran

O R D E R

The transfer petitioner is filed by the petitioner/wife in the matrimonial dispute seeking to withdraw H.M.O.P.No.85 of 2017 filed by the respondent/husband under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, pending on the file of Subordinate Court, Arakkonam, Vellore District and transfer the same to the file of V Additional Family Court, Chennai.

2. Heard the learned counsel for the petitioner as well as learned counsel for the respondent.

3. Earlier in H.M.O.P.No.85 of 2017 the petitioner herein was set exparte on 10.10.2017. It is stated that she had filed I.A.Nos.78 and 79 of 2017 for setting aside the exparte order. The same was allowed on 19.01.2018 and the main H.M.O.P. is posted again on 14.02.2018, which was subsequently adjourned to 27.02.2018.

4. The learned counsel appearing for the respondent though does not have any objection for the transfer of H.M.O.P.No.85 of 2017 from the file of Subordinate Court, Arakkonam to the file of V Additional Family Court, Chennai.

5. Earlier, without the knowledge of the petitioner/wife, H.M.O.P.No.2884 of 2015 filed by her before the V Additional Family Court for divorce was dismissed for default on 30.10.2017 and so far, it has not been restored. However, considering the convenience of the wife as per 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 is inclined to transfer the said H.M.O.P.No.85 of 2017 to V Additional Family Court, Chennai.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.85 of 2017, pending on the file of Subordinate Court, Arakkonam is transferred to the file of V Additional Family Court, Chennai. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

rsi

To

1. The Subordinate Judge,
Arakkonam, Vellore District.

2. The V Additional Judge,
Family Court, Chennai.

+ 1 cc to Mr.R.Karthick Sevugapperumal Advocate,SR.13911

+ 1 cc to Mr.A.M.Ravichandran Advocate,SR.13648

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