

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.847 of 2017
and C.M.P.No.17748 of 2017

K. Suguna ... Petitioner
M. Yogaraj ... Respondent

versus

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw the F.C.O.P.No.3344 of 2017 on the file of the learned VII Additional Family Court, Chennai and to transfer the same to the learned Family Court, Erode.

For Petitioner : Mr.N.Manokaran
For Respondent : Mr.G.P.Kothandaraman

O R D E R

The wife is the petitioner in the above Transfer Civil Miscellaneous Petition, seeking to withdraw F.C.O.P.No.3344 of 2017, pending on the file of VII Additional Family Court, Chennai and transfer the same to the file of Family Court, Erode.

2. The respondent/husband has filed F.C.O.P.No.3344 of 2017 under Section 12(1)(c) of the Hindu Marriage Act, before the VII Additional Family Court, Chennai to declare the marriage held between the petitioner and himself as null and void.

3. In paragraph 4 of the affidavit, it is stated that the petitioner/wife is living with her parents and has no independent income of her own. It is stated that it will be difficult for her to travel around 900 kms., up and down to attend the hearings at Chennai. Being the Family Court, the appearance of the parties is also mandatory.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The learned counsel appearing for the respondent/husband filed his counter and contended that already the petitioner/wife

filed D.V.A.No.5 of 2017 under the Protection of Women from Domestic Violence Act, which is pending before the learned Judicial Magistrate, Perunthurai and the respondent/husband has obtained stay in Crl.O.P.No.25683 of 2017.

6. From the counter affidavit, it is evident that the respondent also hails from Namakkal. Considering the place of residence of both the petitioner as well as the respondent, it would be appropriate to transfer the matter to any Court convenient for both to travel other than the Family Court, where the appearance of the parties is mandatory. Therefore, with the consent of both the parties, F.C.O.P.No.3344 of 2017 could be transferred from the file of VII Additional Family Court, Chennai to the file of Subordinate Court, Sankari. The above transfer is ordered keeping in mind the convenience of wife as contemplated under Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides. The appearance of both the parties are dispensed with till the commencement of trial.

7. Accordingly, the Transfer Civil Miscellaneous petition is disposed of by withdrawing F.C.O.P.No.3344 of 2017, pending on the file of VII Additional Family Court, Chennai and transferring the same to the file of Subordinate Court, Sankari. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

rsi

To

1. The VII Additional Judge
Family Court, Chennai,

2.The Subordinate Judge, Sankari.

+1cc to Mr.Kothandraman, Advocate SR.No.12692

+1cc to Mr.N.Manokaran, Advocate SR.No.12942

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MG (CO)

GN(08/03/2018)