

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:12.01.2018
CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.909 of 2017
and C.M.P.No.18426 of 2017

K. Ranjini

... Petitioner

versus

Sreekanthan

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.43 of 2017 on the file of the Sub Court of Nilgiris at Ootacamund and transfer the same to the file of Family Court at Chennai.

For Petitioner : Mr.V.Ramamurthy

For Respondent : Mr.Sajeev Kumar

O R D E R

The petitioner, who is the wife has filed the above Transfer Civil Miscellaneous petition, seeking withdrawal of H.M.O.P.No.43 of 2017, on the file of Sub Court, Nilgiris at Ootacamund, filed by the respondent/husband under Section 13 (1)(i-a) and 13(1-A)(ii) r/w. Section 19(iv) of the Hindu Marriage Act for divorce and transfer the same to any of the Family Courts in Chennai.

2. Admittedly, the petitioner/wife is living in Malaysia being a citizen. The Marriage was performed on 01.04.2014 in Chennai. It is stated that it will be difficult for her to travel to Nilgiris, whereas it would be easy for her to engage a counsel in Family Court to prosecute the case in her absence.

3. The learned counsel appearing for the respondent/husband vehemently opposed the transfer. He was also trying to impress upon the Court on averments made in the affidavit as perjury. As the Court is only dealing with Section 24 of C.P.C., it is open to the respondent/husband to raise the objections and make his submissions before the Family Court on the merits of the case. Without going into the merits of the case, considering only the convenience of the parties as given under Section 19(iii-a) of the Hindu Marriage Act, this Court finds it appropriate to transfer H.M.O.P.No.43 of 2017, on the file of Sub Court, Nilgiris at Ootacamund to any of the Family Courts in Chennai. It is

stated that counter has not yet been filed in the said H.M.O.P.

4. As the petitioner/wife is living in Malaysia and the respondent/husband is living in Nilgiris, it would be difficult for her to appear for each of the hearing before the Family Court, where the appearance of the parties is mandatory. Therefore, appearance of both the parties till the commencement of the trial is dispensed with. However, the petitioner/wife has to appear for filing her counter petition.

5. With the above observations, the Transfer Civil Miscellaneous Petition is allowed by withdrawing H.M.O.P.No.43 of 2017, pending on the file of Sub Court, Nilgiris at Ootacamund and transferring the same to any of the Family Courts in Chennai. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Sub Judge,
Nilgiris at Ootacamund.

2. The Family Judge,
Chennai.

+lcc to Mr.K.V.Sajeev kumar, Advocate SR.No.2914

+lcc to Mr.V.Ramamurthy, Advocate Sr.No.3028

sm:6.2.2018

Tr.C.M.P.No.909 of 2017
and C.M.P.No.18426 of 2017

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