

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.939 of 2017

and C.M.P.No.18777 of 2017

K. Niveka

... Petitioner

vs

D.S. Vinodh Kumar

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw and transfer the H.M.O.P.No.408 of 2017 on the file of Sub Court, Poonamallee to Sub Court (camp), Ambur.

For Petitioner : Ms.R.Poornima

For Respondent : Mr.R.Balasubramanian
For Mr.P.Singaram

O R D E R

The petitioner/wife in the matrimonial dispute has filed this Transfer Civil Miscellaneous petition, seeking transfer of H.M.O.P.No.408 of 2017, pending on the file of Sub Court, Poonamallee, filed by the respondent/husband for divorce on the ground of cruelty under Section 13(1)(ia) of the Hindu Marriage Act, to the file of Sub Court, Ambur.

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

3. The affidavit in support of the petition has been filed in the month of October, 2017. In para 9 of the affidavit it is stated that the petitioner/wife is seven months pregnant and it would be difficult for her to travel from Vellore to Poonamallee for each of the hearing. She already had a son, who is 1½ years old at that point of time. It is now stated by the learned counsel appearing for the petitioner that the petitioner/wife has delivered a baby a month ago and though, the matter is referred for mediation, she is not in a position to move out even for mediation. Further, it is stated that it is difficult for her to leave the children and attend the mediation.

4. The learned counsel for the respondent/husband resisted the transfer by stating that the respondent/husband apprehends

danger in the hands of the petitioner and her parents and he refused to agree for transfer.

5. Considering the above facts it would be appropriate to transfer H.M.O.P.No.408 of 2017, pending on the file of Sub Court, Poonamallee to any of the Sub Court nearby, so that it will not be mandatory for the parties to appear in person. The petitioner/wife has sought for transfer to Sub Court, Ambur, which is the nearest Sub Court from Vellore. The petitioner/wife is also working as Teacher in Vellore and she is now on leave due to health condition.

6. Considering Section 19(iiiia) of the Hindu Marriage Act, which mandates that the convenience of the wife has to be considered and in the light of the above facts, it would be appropriate to transfer H.M.O.P.No.408 of 2017, pending on the file of Sub Court, Poonamallee to the file of Sub Court, Ambur. Though the appearance of the parties is not mandatory for each hearing before the Sub Court, the appearance of both the parties are dispensed with till the commencement of the trial except otherwise their presence is warranted. The parties are directed to cooperate and appear before the Court at the commencement of the trial.

7. With the above directions, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.408 of 2017, pending on the file of Sub Court, Poonamallee shall stand withdrawn and transferred to the file of Sub Court, Ambur. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

rsi

To

1. The Sub Judge,
Poonamallee.

2. The Sub Judge,
Ambur.

Copy to

The Record Keeper,
V R Section, High Court, Chennai

+1 cc to M/s.R.Poornima, Advocate SR.NO. 6691

+1 cc to Mr.P.Singaram, Advocate SR.NO. 7376

Tr.C.M.P.No.939 of 2017
and C.M.P.No.18777 of 2017

KAN(CO)

JK 19/02/18

<https://hcservices.ecourts.gov.in/hcservices/>