

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.944 of 2017

and

C.M.P.No.18846 of 2017

Dr.M.Asweni

... Petitioner/Respondent

-Vs-

K.Rajesh

... Respondent/ Petition

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw the H.M.O.P.No.3077 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the Subordinate Court at Tambaram, Kancheepuram District.

For petitioner ... Mr.K.Wilson

For respondent ... No Appearance

O R D E R

The transfer petition is filed by the petitioner-wife seeking transfer of H.M.O.P.No.3077 of 2017 from the file of the I Additional Family Court, Chennai to the file of the Subordinate Court, Tambaram, Kancheepuram.

2. H.M.O.P.No.3077 of 2017 is filed by the respondent-husband under Section 9 of the Hindu Marriage Act before the I Additional Family Court, Chennai for restitution of conjugal rights. Subsequently, the petitioner-wife had filed H.M.O.P.No.727 of 2017 before the Sub Court, Tambaram, for divorce under Section 13(1) (i-a) of the Hindu Marriage Act.

3. In paragraph 22 of the affidavit filed in support of the petition, it is stated that as the petitioner, who is a Doctor, staying with her parents house at Velachery, it would be difficult for her to travel for two hours to appear before the Family Court, Chennai. However, the respondent-husband is living in Thirumudivakkam, Chennai, which is within the jurisdiction of Subordinate Court, Tambaram, Kancheepuram District and he may not have any difficulty in attending the Court at Tambaram. Further, the appearance of the parties is not mandatory before

the Sub Court on each hearing. Hence, she sought for transfer to Subordinate Court, Tambaram, Kancheepuram District.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though the respondent served with notice, he has not cared to appear either in person or through counsel.

5. Considering the averments made in the affidavit filed in support of the petition and taking into account Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides and also there will be a conflict in decisions, if the above said O.Ps. are tried in two different places, this Court feels it appropriate to transfer H.M.O.P.No.3077 of 2017 from the file of the I Additional Family Court, Chennai to the file of Subordinate Court, Tambaram, Kancheepuram, to be heard along with H.M.O.P.No.727 of 2017.

6. Accordingly, the transfer petition is allowed by withdrawing H.M.O.P.No.3077 of 2017 from the file of I Additional Family Court, Chennai and transferring the same to the file of Sub Court, Tambaram to be tried along with H.M.O.P.No.727 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1. The Sub Judge, Tambaram
 2. The I Additional Family Judge, Chennai
- +1 CC to Mr.K.Wilson Advocate SR.NO.1217

Tr.C.M.P.No.944 of 2017
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GJ(CO)
VC (05/02/2018)

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08.01.2018



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