

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.965 of 2017
and C.M.P.No.19336 of 2017

M.Thangam Petitioner/Respondent
vs.
R.Karthick Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition has filed under Section 24 of C.P.C. praying to withdraw the H.M.O.P.No.128 of 2017 on the file of the Sub Court, Gobichettipalayam and to transfer the same to the Sub Court, Kangeyam.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.P.Saravanasowmiyan

O R D E R

The petitioner/wife in a matrimonial proceedings has filed the above Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.128 of 2017, pending on the file of the Sub Court, Gobichettipalayam and transfer the same to the file of Sub Court, Kangeyam.

2. The respondent/husband has filed the above H.M.O.P.No.128 of 2017 under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, before Subordinate Judge, Gobichettipalayam, for dissolution of marriage held between the petitioner and the respondent on 22.05.2015. It is stated that the petitioner-wife has also filed a petition for maintenance in D.V.C.No.05 of 2017 before the learned Judicial Magistrate, Kangeyam, in which, the respondent-husband has been appearing regularly.

3. In paragraph 5 of the affidavit filed in support of the petition, the petitioner has stated that she is living with her parents and she has got no independent income of her own. Besides, it will be difficult for her to travel around 160 kms up and down to attend the hearings before the Subordinate Court, Gobichettipalayam, as she is living in Kangeyam.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5. It is represented by the learned counsel for the respondent-husband that the respondent-husband is presently living in Bhavani and he has to travel to Kangeyam to attend the D.V.C.case filed by the wife. In such circumstances, it will not be prejudicial for the respondent-husband to go to Sub Court, Kangeyam to attend the hearings, as the appearance of the parties before the Sub Court is not mandatory.

6. Considering the convenience of the parties and also Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P.No.128 of 2017 from the file of the Sub Court, Gobichettipalayam to the file of the Sub Court, Kangeyam.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.128 of 2017, pending on the file of the Sub Court, Gobichettipalayam shall stand withdrawn and transferred to the file of the Subordinate Court, Kangeyam. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

srn

To

1. The Subordinate Judge,
Gobichettipalayam.

2. The Subordinate Judge,
Kangeyam

+1cc to Mr.N.Manokaran, Advocate sr.no.11078

Tr.C.M.P. No.965 of 2017
and C.M.P.No.19336 of 2017

nr 06/03/2018