

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.985 of 2017
and C.M.P.No.19878 of 2017

V. Priya

... Petitioner

versus

P. Balu

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw the case in H.M.O.P.No.41 of 2016 pending on the file of Principal Subordinate Court at Kumbakonam and transfer the same to the Subordinate Court at Tambaram, for joint trial with the case in H.M.O.P.No.267 of 2016 pending on the file of the Subordinate Court at Tambaram.

For Petitioner : Mr.V.R.Appaswamee
For Respondent : Mr.R.Prasanna Vineeth Durai

O R D E R

The petitioner/wife in the matrimonial dispute has filed this Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.41 of 2016, pending on the file of Principal Subordinate Court, Kumbakonam and transfer the same to the file of Subordinate Court, Tambaram, to be tried along with H.M.O.P.No.267 of 2016. सत्यमेव जयते

2. The respondent/husband has filed H.M.O.P.No.41 of 2016 under Section 13(1)(i-a) of the Hindu Marriage Act for divorce, before the learned Subordinate Judge, Kumbakonam, whereas, the petitioner/wife has filed H.M.O.P.No.267 of 2016 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, before the Subordinate Judge, Tambaram.

3. In the affidavit filed in support of the petition, the petitioner/wife expressed difficulty in travelling from Chennai to Kumbakonam for each hearing and also about her financial condition.

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

5. The learned counsel for the respondent objected the transfer stating that earlier, on two occasions, the wife was set exparte and it was allowed to be set aside. It is also stated that the respondent/husband is living only in Chennai, where he is employed. Considering the above facts, if the O.P. is allowed, to be tried independently, it will lead to conflict of decisions. The petitioner/wife has now sought for the transfer based on her convenience, as she is also living in Ambattur, Chennai.

6. In the above circumstances, considering 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 to avoid any conflict in decisions, this Court is of the view that the matter may be transferred to Subordinate Court, Tambaram, where the H.M.O.P.No.267 of 2016 is already pending.

7. Accordingly, the Transfer Civil Miscellaneous petition is allowed by withdrawing H.M.O.P.No.41 of 2016, pending on the file of Principal Subordinate Court, Kumbakonam and transferring the same to the file of Subordinate Court, Tambaram, to be tried along with H.M.O.P.No.267 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Principal Subordinate Judge,
Kumbakonam.

2. The Subordinate Judge,
Tambaram.

+1cc to Mr.V.R.Appaswamee, Advocate, S.R.No.16832

+1cc to Mr.R.Prasanna Vineeth Durai, Advocate, S.R.No.17323

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