

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.107 of 2018

and C.M.P.No.3107 of 2018

V. Jaisri ... Petitioner/Respondent

versus

D. Prasanna ... Respondent/Petitioner

Prayer:- The Petition is filed under Section 24 of Civil Procedure Code praying to withdraw H.M.O.P.No.288 of 2018 pending on the file of the Sub Court, Kancheepuram Town, situated in Kancheepuram District and transfer the same to the file of the Sub Court, Arani situated in Thiruvannamalai District to be tried along with H.M.O.P.No.80 of 2017 pending on the file of the Sub Court, Arani in Thiruvannamalai District.

For Petitioner : Mr.G.K.Muthukumaar

For Respondent : Mr.D.Vinothan

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.288 of 2017 pending on the file of the Subordinate Court, Kancheepuram and transfer the same to the file of the Subordinate Court, Arani.

2. Earlier, the petitioner/wife had filed H.M.O.P.No.80 of 2017 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, which is pending before the Subordinate Judge, Arani. The respondent/husband had filed H.M.O.P.No.288 of 2017 under Section 13(1)(i-a) of the Hindu Marriage Act for divorce before the Subordinate Court, Kancheepuram subsequent to the wife's petition as a counter blast. The respondent/husband has already been appearing before the Subordinate Court, Arani for the hearing in H.M.O.P.No.80 of 2017.

3. In the affidavit filed in support of the petition, it is stated that the petitioner/wife is unable to travel alone to Kancheepuram from Arani, which is at a distance of 70 kms., as she is not having any independent income and she is in need of money for her day to day expenses. Hence, she sought for the transfer.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent. The learned counsel appearing for the respondent contended that the respondent would be having a threat if he goes to Arani. Admittedly, there is another petition pending before the Subordinate Court, Arani, where the respondent/husband has to appear. So far, he had never stated anything about the threat and sought for any transfer in this regard.

5. As the O.P. filed by the respondent/husband is for divorce and the O.P. filed by the petitioner/wife is for restitution of conjugal rights, in order to avoid any conflict in decisions, it would be appropriate to direct joint trial of both the cases.

6. Considering the above aspects and Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.288 of 2017 pending on the file of Subordinate Court, Kancheepuram to the file of Subordinate Court, Arani, to be tried along with H.M.O.P.No.80 of 2017.

7. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.288 of 2017 pending on the file of Subordinate Court, Kancheepuram is transferred to the file of Subordinate Court, Arani, to be tried along with H.M.O.P.No.80 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(Co)

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Sub Assistant Registrar

rsi

To

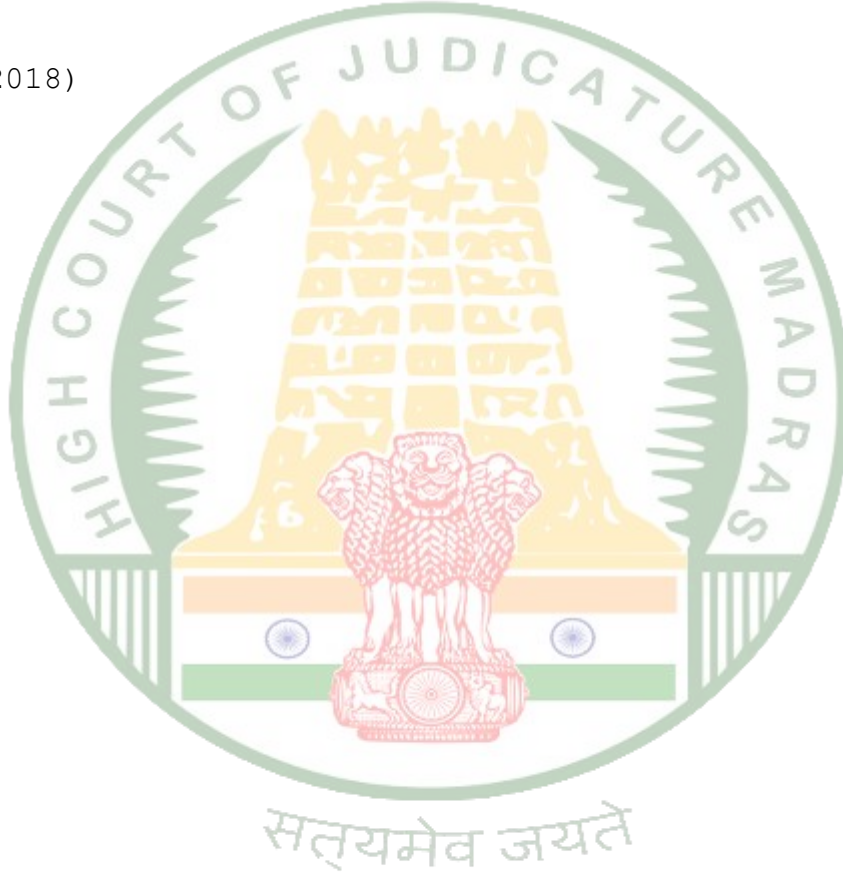
1. The Subordinate Judge,
Kancheepuram.

2. The Subordinate Judge,
Arani.

+1cc to Mr.G.K.MUTHUKUMAR, Advocate, S.R.No. 22174

Tr.C.M.P. No.107 of 2018
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TR(12/04/2018)



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