

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.352 of 2015
and M.P.No.1 of 2015

M. Devi

... Petitioner

versus

M. Moorthy

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw the case H.M.O.P.No.311 of 2012 on the file of the Subordinate Judge, Tiruppur and transfer the same to the Family Court, Erode.

For Petitioner : Mr.C.Munusamy
For Respondent : Served - No appearance

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.311 of 2012, pending on the file of Sub Court, Tiruppur, filed by the respondent/husband for divorce under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act to the file of Family Court, Erode.

2. It is seen from the affidavit filed in support of the petition that the petitioner/wife is living in Erode and the respondent/husband is also working at Erode. She finds it difficult to travel from Erode to Tiruppur to attend the Court proceedings. Further it is stated that the petitioner/wife has already filed M.C.No.16 of 2004 before the Family Court, Erode for maintenance and the same was ordered. But the respondent/husband had not paid any maintenance. Hence, the petitioner/wife had filed a petition in C.M.P.No.106 of 2014 in M.C.No.16 of 2004 on the file of Family Court, Erode claiming arrears of maintenance and the same is pending till today. Therefore, it would not be prejudicial to the respondent/husband to appear in the H.M.O.P., if it is transferred to Family Court, Erode.

3. Heard the learned counsel for the petitioner. Though notice has been served on the respondent, there is no representation either in person or through his counsel.

4. Considering the convenience of the wife as Section 19 (iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, this Court is inclined to transfer H.M.O.P.No.311 of 2012, pending on the file of Sub Court, Tiruppur, to the file of Family Court, Erode, where the C.M.P.No.106 of 2014 in M.C.No.16 of 2004, is pending.

5. Accordingly, the Transfer Civil Miscellaneous petition is allowed by withdrawing H.M.O.P.No.311 of 2012, pending on the file of Sub Court, Tiruppur and transferring the same to the file of Family Court, Erode, to be tried along with C.M.P.No.106 of 2014 in M.C.No.16 of 2004. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The Subordinate Judge,
Tiruppur.

2. The Family Judge,
Erode.

+1 CC to Mr.C. Munusamy, advocate sr 8072.

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SP(20/02/2018)

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