

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.690 of 2015

and M.P.No.1 of 2015

N. Saranya ... Petitioner

versus

B. Purushothaman ... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.32 of 2015 pending on the file of the I Additional Sub Court, Salem and transfer the same to Sub Court, Ulundurpettai to be tried along with H.M.O.P.No.9 of 2017 (H.M.O.P.No.114 of 2015). (Prayer amended vide order dated 18.01.2018 made in C.M.P.No.716 of 2018 in Tr.C.M.P.No.690 of 2015).

For Petitioner : Mr.N.Naganathan

For Respondent : Sd-No appearance

O R D E R

The petitioner/wife in the matrimonial proceedings has filed this Transfer Civil Miscellaneous Petition, seeking to withdraw H.M.O.P.No.32 of 2015, pending on the file of I Additional Sub Court, Salem and transfer the same to the file of Sub Court, Ulundurpettai to be tried along with H.M.O.P.No.9 of 2017 (H.M.O.P.No.114 of 2015).

2. The respondent/husband has filed H.M.O.P.No.32 of 2015 under Section 13(1)(i-a) of the Hindu Marriage Act, before the I Additional Sub Judge, Salem for divorce. Whereas, the petitioner/wife has filed H.M.O.P.No.114 of 2015 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, before the Sub Court, Villupuram, which was transferred to Sub Court, Ulundurpettai for administrative reasons and re-numbered as H.M.O.P.No.9 of 2017.

3. From paragraph 9 of the affidavit it is seen that the petitioner/wife is living in Villupuram, Ulundurpet Taluk with

her parents and the respondent/husband is living in Puducherry. It is stated that the petitioner/wife is not working anywhere and she is dependent on her parents for her livelihood. Further, it is stated that the distance between Ulundurpet to Salem is nearly about 158 kms., and the petitioner/wife is not in a position to travel from Ulundurpet to Salem to attend the Court proceedings. Hence, the petitioner/wife has sought for the above transfer.

4. Heard the learned counsel for the petitioner. Though the respondent is served with notice and his name has been printed in the cause list, there is no representation 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) 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.32 of 2015 from the file of I Additional Sub Court, Salem to the file of Sub Court, Ulundurpettai, to be heard along with H.M.O.P.No.9 of 2017.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed by withdrawing H.M.O.P.No.32 of 2015, pending on the file of I Additional Sub Court, Salem and transferring the same to the file of Sub Court, Ulundurpettai to be tried along with H.M.O.P.No.9 of 2017. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rsi

To

1. The I Additional Sub Judge,
Salem.
2. The Sub Judge,
Ulundurpettai.

+1CC to Mr.N.Naganathan, Advocate vide CA SR No.3751/18

Tr.C.M.P. No.690 of 2015
and M.P.No.1 of 2015

VUM(10.02.2018)