

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.54 of 2018
and
C.M.P.No.1461 of 2018

K. Kamalavani ... Petitioner
versus
V. Logamadasamy ... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw and transfer H.M.O.P.No.101 of 2017 from the file of the learned Principal Subordinate Judge, Chengalpattu to the file of learned III Additional Family Court Judge, Chennai, to be tried along with H.M.O.P.No.251 of 2018

For Petitioner : Mr.D.Palaniswamy
For Respondent : Served - No appearance

O R D E R

The petitioner/wife in the matrimonial proceedings has filed this Transfer Civil Miscellaneous Petition seeking transfer of H.M.O.P.No.101 of 2017 pending on the file of Principal Subordinate Court, Chengalpattu to the file of III Additional Family Court, Chennai.

2. The respondent/husband had filed H.M.O.P.No.101 of 2017 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Principal Subordinate Judge, Chengalpattu for divorce on the ground of cruelty. The petitioner/wife had filed H.M.O.P.No.251 of 2018 under Section 9 of the Hindu Marriage Act for restitution conjugal rights, which is pending before the III Additional Family Court, Chennai.

3. It is stated in the affidavit that the petitioner/wife is living in Chennai and she has a child of 1 ½ years old. She is expressing her difficulty to travel to Chengalpattu with the child. In addition, she is also stated that she has got no independent income to spend for the travel for each hearing. Hence, the transfer is sought for.

4. Heard the learned counsel for the petitioner. The respondent/husband has been served with notice privately as well as through Court, but he has not cared to appear before this Court either in person or through counsel.

5. 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 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.101 of 2017 from the file of Principal Subordinate Court, Chengalpattu to the file of III Additional Family Court, Chennai, where H.M.O.P.No.251 of 2018 is already pending.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.101 of 2017, pending on the file of Principal Subordinate Court, Chengalpattu is transferred to the file of III Additional Family Court, Chennai, to be tried along with H.M.O.P.No.251 of 2018. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

rsi

To

1. The Principal Subordinate Judge,
Chengalpattu.

2. The III Additional Family Judge,
Chennai.

+3cc to Mr.D.Palaniswamy, Advocate SR.No.19908

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GN(06/04/2018)