

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.02.2018
CORAM :
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
Tr.C.M.P. No.276 of 2016
and C.M.P.No.7535 of 2016

R. Kumari

... Petitioner

versus

S. Gunalan

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.41 of 2014 pending on the file of learned Subordinate Judge, Thiruvallur and transfer the same to the learned Sub Court at Ponneri for conducting joint trial along with H.M.O.P.No.19 of 2015, pending on the file of learned Sub Court at Ponneri.

For Petitioner : Mr.A.Rajesh Kanna

For Respondent : Mr.B.Chittibabu

O R D E R

The Transfer Civil Miscellaneous petition is filed by the petitioner/wife in the matrimonial dispute seeking to withdraw H.M.O.P.No.41 of 2014, pending on the file of Subordinate Court, Thiruvallur, and transfer the same to the file of Subordinate Court, Ponneri, to be tried along with H.M.O.P.No.19 of 2015.

2. The respondent/husband has filed H.M.O.P.No.41 of 2014 under Section 13(1) (i-a) (i-b) (iii)a of the Hindu Marriage Act, before the learned Subordinate Judge, Thiruvallur for divorce on the ground of desertion and cruelty. The petitioner/wife has also filed H.M.O.P.No.19 of 2015 under Section 9 of the Hindu Marriage Act, before the learned Subordinate Judge, Ponneri for restitution of conjugal rights.

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

4. In the affidavit, the petitioner/wife had expressed difficulty in attending the Court proceedings, as she is suffering with defective eye sight and is unable to travel long distance without any assistance. Further, it is stated that the

female child born out of the wedlock is also living with the mother. Hence, the petitioner/wife sought for the above transfer.

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 decision, it would be appropriate to direct joint trial of both the cases. However, the learned counsel for the respondent/husband has got no objection for the above transfer.

6. Considering the convenience of the parties and also Section 19(iii-a) of the Hindu Marriage Act, which speaks about the convenience of the wife is paramount, it would be appropriate to transfer H.M.O.P.No.41 of 2014, pending on the file of Subordinate Court, Thiruvallur to the file of Subordinate Court, Ponneri, to be tried along with H.M.O.P.No.19 of 2015, which is already pending.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.41 of 2014, pending on the file of Subordinate Court, Thiruvallur shall stand withdrawn and transferred to the file of Subordinate Court, Ponneri, to be tried along with H.M.O.P.No.19 of 2015. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,
Thiruvallur.

2. The Subordinate Judge,
Ponneri.

+1 cc to M/s.B.Chettibabu Advocate sr 10026

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