

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.619 of 2016
and C.M.P.No.16668 of 2016

Prathiba @ Meenakshi

... Petitioner

versus

A. Manikandan @ Meenakshi Sundaram

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.127 of 2016, pending on the file of the Subordinate Court, Devakottai and transfer the same to the file of the I Additional Family Court, Chennai, to be tried simultaneously with M.C.No.87 of 2016.

For Petitioner : Mr.P.B.Balaji
For Respondent : Ms.A.L.Gandhimathi

O R D E R

The transfer petition is filed by the petitioner/wife in the matrimonial proceedings seeking to withdraw H.M.O.P.No.127 of 2016 filed by the respondent/husband for divorce under Section 13(1)(i-a) of the Hindu Marriage Act, pending on the file of Subordinate Court, Devakottai and transfer the same to the file of I Additional Family Court, Chennai, to be tried along with M.C.No.87 of 2016 filed by her, which is already pending there.

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

3. After the transfer petition was filed, mediation was tried before Mediation Centre, Chennai. It is stated that though in principle, it was agreed by the wife for divorce, but on the question of financial settlement, it did not get through. Admittedly, the respondent/husband is living in U.S.A. and he has been prosecuting the case through his power of attorney - the father.

4. As the M.C.No.87 of 2016 is already pending before the I Additional Family Court, Chennai, where it has been prosecuted by the respondent/husband, it would not be prejudicial to the respondent to prosecute H.M.O.P. also filed by him for divorce. Both M.C. and H.M.O.P. are pending from 2016 and there seems to be no progress. In such circumstances, considering Section 19 (iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P.No.127 of 2016 from the file of Subordinate Court, Devakottai to the file of I Additional Family Court, Chennai.

5. As stated above, since the respondent/husband is living in U.S.A., his appearance before the I Additional Family Court, Chennai is dispensed with till the commencement of the trial.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed and H.M.O.P.No.127 of 2016, pending on the file of Subordinate Court, Devakottai is transferred to the file of I Additional Family Court, Chennai, to be tried along with M.C.No.87 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Subordinate Judge
Devakottai.

2. The I Additional Judge,
Family Court, Chennai.

+1 CC to Mr.P.B. Ramanujam, Advocate sr 13826.

+1 CC to Mr.A.L. Gandhimathi, Advocate sr 14817

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SP(12/03/2018)