

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.715 of 2016
and C.M.P.No.18605 of 2016

B.Vanathy

... Petitioner

Vs.

R.Balamurugan

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., praying to withdraw the H.M.O.P.No.583 of 2016 pending on the file of the Family Court, Coimbatore district and transfer the same to the file of the Family Court at Puducherry.

For Petitioner : Mr.P.G.Tyagu
for Ms.S.Meenakshi

For Respondent : Served Notice-No Appearance

O R D E R

The wife in a matrimonial proceedings has filed the above transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.583 of 2016 pending on the file of the Family Court, Coimbatore and transfer the same to the file of the Family Court, Puducherry.

2. It is stated that the petitioner/wife has filed H.M.O.P.No.38 of 2016 under Section 9 of the Hindu Marriage Act on the file of the Family Court, Puducherry for restitution of conjugal rights. The respondent/husband has also filed H.M.O.P.No.583 of 2016 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Family Court, Coimbatore for divorce.

3. In paragraph 4 of the affidavit filed in support of the petition, the petitioner/wife has stated that she is a permanent resident of Puducherry and she is residing with her aged parents. It is also stated that she is working as a School teacher at Puducherry and finds it difficult to avail leave to attend the Court hearings at Coimbatore, as it would not only affect her career but also the education of the school children under her care. Hence, she sought for transfer.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent is served with notice through Court as early as in the month of November 2017, there is no appearance either in person or through counsel.

5. Considering the averments made in the affidavit and taking into account 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.583 of 2016 from the file of Family Court, Coimbatore to the file of Family Court, Puducherry, to be tried along with H.M.O.P.No.38 of 2016, which is already pending.

6. Accordingly, the transfer petition is allowed and H.M.O.P.No.583 of 2016 pending on the file of Family Court, Coimbatore is withdrawn and transferred to the file of the Family Court, Puducherry, to be tried along with H.M.O.P.No.38 of 2016. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Judge, Family Court, Coimbatore

2. The Judge, Family Court, Puducherry

+1cc to Mr.S.Meenakshi, Advocate, S.R.No.12117

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RRK(13/03/2018)