

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

Transfer CMP. No.441 of 2019
and C.M.P.No.12476 of 2019

J.Gomathy

... Petitioner

Vs

A.Sakthi @ Janarthanan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of the Civil Procedure, to withdraw the H.M.O.P.No.86 of 2018 from the file of the Sub Court, Sankagiri and transfer the same to the Family Court, Erode, to be heard along with H.M.O.P.No.;136 of 2019 pending on its file..

For Petitioner : M/s.J.Prithivi

For Respondent : No Appearance

O R D E R

Mrs.J.Gomathi, Wife of A.Sakthi @ Janarthanan, the respondent herein, having married the respondent as per the Hindu rites and customs on 20.11.2016, has come to this Court seeking an order for withdrawal of pending HMOP No.86 of 2018 from the file of the Sub Court, Sankagiri and transfer the same to the Family Court, Erode, to be heard along with pending HMOP No.136 of 2019 filed by the petitioner under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights.

2.Learned counsel for the petitioner would submit that the petitioner has moved the learned Family Court, Erode in HMOP No.136 of 2019 under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal rights, expressing her willingness to go for reunion with the respondent. The respondent can very well go for reunion with the petitioner failing which, he can go for contesting his HMOP No.86 of 2018 filed for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955. Learned counsel for the petitioner would also submit that the petitioner is having a female child aged less than two years.

3.The records shows that the Registry of this Court had issued notice and the same was also served on 05.07.2019 but till date, the respondent has neither engaged any counsel to appear nor appeared before this Court, which shows that he has no objection to allow this Transfer CMP. As the petitioner is also having female child aged less than two years and also that her HMOP No.136 of 2019, seeking for restitution of conjugal rights is pending on the file of the Family Court, Erode, this Court finds no impediment to transfer HMOP No.86 of 2019 from the file of the Sub Court to the Family Court, Erode, to be tried along HMOP No.136 of 2019. Therefore, the Transfer CMP is allowed and the HMOP No.86 of 2018 pending on the file of the Sub Court, Sankagiri, is withdrawn and transferred to the Family Court, Erode, to be tried along with HMOP No.136 of 2019 for common trial on merits. No costs. Consequently, 12476 of 2019 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vri

To

1. The Sub Judge,
Sankagiri.

2.The Judge,
Family Court,
Erode.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate Sr.64545

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srg 14/09/2019