



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.823 of 2017

Meena

D/o Manoharan

.. Petitioner

-vs-

Manikandan

S/o Pachaiyappan Mudaliyar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.55 of 2015 on the file of the learned Subordinate Judge, Kanchipuram and to transfer the same to the file of the learned Family Judge, Chengalpet for joint trial along with F.C.O.P.No.4 of 2017.

For Petitioner :: Mr.D.Ravichander

For Respondent :: No appearance

ORDER

Mrs.Meena, Wife of Manikandan, the respondent herein has come to this Court seeking an order for withdrawal of the H.M.O.P.No.55 of 2015 filed by the respondent/husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the learned Subordinate Judge, Kanchipuram and to transfer the same to the file of the learned Family Judge, Chengalpet for joint trial along with F.C.O.P.No.4 of 2017 filed by the petitioner/wife under Section 9 of the Hindu Marriage Act for restitution of conjugal rights.

2. Learned counsel for the petitioner submitted that after the marriage was solemnized on 19.2.2014 between the petitioner and the respondent, it is the allegation of the respondent/husband that the marriage was not consummated till date at the instance of the petitioner and various frivolous allegations also have been levelled against the petitioner. Refuting all the allegations, the petitioner also has filed F.C.O.P.No.4 of 2017 seeking restitution of conjugal rights. That shows that she has not deserted from the respondent's matrimonial home. In any case, the respondent has to contest the F.C.O.P.No.4 of 2017 filed by the petitioner for restitution of conjugal rights before the Family Court at Chengalpet. Therefore, if the H.M.O.P.No.55 of 2015 filed by the respondent for dissolution of marriage pending before the learned Subordinate Judge, Kanchipuram is withdrawn and transferred to the learned Family Judge at



Chengalpet, it will be beneficial to both the parties, he pleaded.

3. Although notice has been served upon the respondent on 3.7.2019, he has not chosen to appear before this Court. That shows that he has no objection for allowing this petition. Moreover, when the petition for restitution of conjugal rights filed by the petitioner under Section 9 of the Hindu Marriage Act is also pending on the file of the Family Court, Chengalpet, if the present H.M.O.P.No.55 of 2015 filed by the respondent/husband for divorce is transferred from the Sub Court, Kanchipuram to the Family Court, Chengalpet, both the cases can be tried together. Therefore, the H.M.O.P.No.55 of 2015 pending on the file of the Sub Court, Kanchipuram is withdrawn and transferred to the Family Court, Chengalpet. The learned Family Court Judge, Chengalpet shall take up both the cases together and expedite their disposal on merits. Accordingly, the transfer civil miscellaneous petition is allowed. Consequently, C.M.P.No.17042 of 2017 is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Subordinate Judge
Kanchipuram

2. The Judge, Family Court,
Chengalpet

+1cc to Mr.D.Ravichander , Advocate SR.No. 61396

Tr.C.M.P.No.823 of 2017

vp (CO)

A.SK(30/08/2019)