

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NOS.300 OF 2014 AND 258 OF 2015
AND MP NOS.1 OF 2014 AND 1 OF 2015

Dr.Mrs.C.S.Latha ... Petitioner in
TR CMP NO.300 / 2014

N.Elangovan ... Petitioner in
TR CMP NO.258 / 2015

Versus

N.Elangovan ... Respondent in
TR CMP NO.300 / 2014

Dr.C.S.Latha ... Respondent in
TR CMP NO.258 / 2015

PRAYER IN TR CMP NO.300/2014: Petition filed under section 24 of the Code of Civil Procedure to withdraw the petition in H.M.O.P.No.90 of 2014 from the file of the Subordinate Court, Tambaram and transfer the same to the II Additional Family Court, Chennai to be tried along with the petition in O.P.No.1597 of 2014.

PRAYER IN TR CMP NO.258/2015: Petition filed under section 24 of the Code of Civil Procedure to withdraw the petition in H.M.O.P.No.1597 of 2014 on the file of the II Additional Family Court, Chennai and transfer the same to the Sub Court, Tambaram in H.M.O.P.No.90 of 2014.

For Petitioner
in TR CMP No.300/2014 : Mr.K.Balaji

For Respondent
in TR CMP No.300/2014 : Mr.Kathir

For Petitioner
in TR CMP No.258/2015 : Mr.M.Gnanasekar

COMMON ORDER

The respondent in H.M.O.P.No.90 of 2014 on the file of the Sub-Court, Tambaram is the petitioner in TR CMP No.300 of 2014.

2. The respondent in O.P.No.1597 of 2014 on the file of the II Additional Family Court at Chennai is the petitioner in TR CMP No.258 of 2015.

3. The parties are hereinafter referred to as "husband" and "wife".

4. The husband filed a petition in H.M.O.P.No.90 of 2014 before the Sub Court, Tambaram, praying for a decree of divorce. The wife filed a petition in O.P.No.1597 of 2014 before the II Additional Family Court, Chennai, invoking Section 9 of the Hindu Marriage Act, 1955. Both the proceedings are now pending before the respective Courts. The parties have now come up with these two transfer petitions to transfer the proceedings.

5. The husband wanted the matter to be transferred to the Court where H.M.O.P.No.90 of 2014 is pending. The wife, on the other hand, wanted the matter to be transferred to the Court where O.P.No.1597 of 2014 is pending.

6. Section 19(iii-a) of the Hindu Marriage Act, 1955, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

7. There are two proceedings now pending before two different Courts. The husband wanted a decree of divorce. The wife seeks a decree for restitution of conjugal rights. In case, these two proceedings are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter. I am therefore of the view that both the matters should be tried by a particular Court instead of taking up the matters by two different Courts.

8. The proceedings in H.M.O.P.No.90 of 2014 is withdrawn from the file of the Sub Court, Tambaram and is transferred to the file of Second Additional Family Court, Chennai, for disposal along with O.P.No.1597 of 2014.

9. The Transfer Civil Miscellaneous Petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1.The Sub Court
Tambaram.

2.The II Additional Family Court
Chennai.

1 cc to M/s. K. Balaji, Advocate, Sr.58934

1 cc to M/s. M. Gnanasekar, Advocate, Sr. 59364

TR CMP NOS.300 OF 2014
AND 258 OF 2015

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