

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.328 of 2014 and

MP.No.1 of 2014

V.Yamuna

...Petitioner

versus

N.Chandramouleeswaran

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw the case pending in HMOP No.1439 of 2014 on the file of Hon'ble I Additional Family Court, Chennai and transfer the same to the file of Hon'ble Sub-Court, Thiruvavarur.

For Petitioner : Ms.B.Saranya

For Respondent : Mr.R.Esakkiraja

O R D E R

The respondent in HMOP No.1439 of 2014 on the file of the I Additional Family Court, Chennai is the petitioner in this transfer petition.

2. Heard the learned counsel for the petitioner and the learned counsel on behalf of the respondent.

3. The respondent filed original proceedings in HMOP No.1439 of 2014 before the I Additional Family Court, Chennai to declare that the marriage solemnized on 02.09.2013 is null and void. The petitioner on the other hand filed maintenance case in M.C.No.514 of 2014 before the Judicial Magistrate, Nannilam. Thereafter, she has filed this transfer petition.

4. The petitioner has taken up a specific contention that the Court at Chennai has no jurisdiction. According to the petitioner, the marriage was solemnized at Tiruvavarur. The parties lastly resided together also at Tiruvavarur. The respondent is a resident of Tambaram. According to the petitioner, the respondent by giving an incorrect address filed the petition before the Court at Tambaram.

5. Even though sufficient opportunity was given to the respondent, he has not produced any document to show that the Court at Chennai has got jurisdiction to entertain the original proceedings.

6. The petitioner is a permanent resident of Tiruvarur. The petitioner has obtained an order directing the respondent to pay maintenance at the rate of Rs.15,000/- per month. It is a matter of record that the respondent has not paid the maintenance amount inspite of the fact that the order was passed as early as on 29.04.2016.

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

8. The petitioner clearly demonstrated that it would not be possible for her to appear before the Court at Chennai and conduct the proceedings. I am therefore of the view that the matter requires to be transferred.

9. In the result, the proceedings in HMOP No.1439 of 2014 is withdrawn from the file of I Additional Family Court, Chennai and is transferred to the file of Sub-Court, Tiruvarur for disposal on merits.

10. The Transfer CMP is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

(svki)

To

- 1.The I Additional Family Court, Chennai
- 2.The Sub-Court, Tiruvarur

+1CC to M/s. K. Sumathi, Advocate Sr.No.53456

+1CC to M/s. K. Bhawatharini, Advocate Sr.No.53364

Transfer CMP No.328 of 2014

ACA (CO)

MD : 17/10/2016