

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP Nos.154 and 370 of 2015
and
M.P.Nos.1 and 1 of 2015

K.Krithga ... Petitioner in both petitions
Versus

Sri Nagaswamy Venkatesh ... Respondent in both petitions

PRAYER: Tr.C.M.P.No.154 of 2015 filed under Section 24 of C.P.C., to withdraw the case in HMOP No.100 of 2014 on the file of Family Court at Udhagamandalam, Nilgiris District to the file of Family Court, Coimbatore to be tried and heard simultaneously or jointly along with M.C.No.139 of 2014 pending before the Family Court, Coimbatore.

Tr.C.M.P.No.370 of 2015 filed under Section 24 of C.P.C., to withdraw the case in GWOP No.10 of 2015 on the file of the District Court, Udhagamandalam to the file of Family Court at Coimbatore to be tried and heard simultaneously or jointly along with M.C.No.139 of 2014 pending before the Family Court, Coimbatore.

For Petitioner : Mr.A.S.Vijayaragavan

For Respondent : No appearance

C O M M O N O R D E R

The respondent initiated two proceedings against the petitioner. The proceedings in HMOP No.100 of 2014 was filed before the Family Court at Udhagamandalam, seeking a decree under Section 9 of the Hindu Marriage Act. The proceedings in GWOP No.10 of 2015 was filed before the District Court, Udhagamandalam, seeking custody of the minor child. The petitioner, on the other hand filed M.C.No.139 of 2014 for maintenance before the Family Court at Coimbatore.

2. The petitioner filed Tr.CMP.No.154 of 2015 for withdrawal of the proceedings in HMOP No.100 of 2014 from the file of Family court, Udhagamandalam and transfer the same to the Family Court at Coimbatore. The petitioner filed Tr.CMP.No. 370 of 2015 seeking withdrawal of the proceedings in GWOP No.10 of 2015 and transfer the same to the Family Court at Coimbatore.

3. Heard the learned counsel for the petitioner. None appears on behalf of the respondent in spite of printing his name in the cause list after service.

4. The petitioner is a resident of Coimbatore. The proceedings initiated by the respondent are pending before two Courts at Nilgiris. The proceedings in HMOP No.100 of 2014 is pending before the Family Court at Udhagamandalam. The connected proceedings in GWOP No.10 of 2015 is pending before the District Court, Udhagamandalam.

5. The petitioner, in her affidavit filed in support of the transfer petitions contended that she is residing at Coimbatore along with her minor child. It would not be possible for her to travel all along from Coimbatore to Udhagamandalam for the purpose of defending the proceedings initiated by the respondent. There is nothing on record to suspect the bonafides in filing these transfer petitions.

6. 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.

7. The petitioner has produced sufficient materials justifying her request for transfer. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in H.M.O.P.No.100 of 2014 is withdrawn from the file of Family Court at Udhagamandalam, Nilgiris District and is transferred to the file of Family Court, Coimbatore. The proceedings in G.W.O.P.No.10 of 2015 is withdrawn from the file of District Court at Udhagamandalam, Nilgiris District and is transferred to the file of Family Court, Coimbatore, for disposal along with M.C.No.139 of 2014.

9. The Transfer Civil Miscellaneous Petitions are allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judge,
Family Court,
Udhagamandalam,
Nilgiris District.
- 2.The District Judge,
Udhagamandalam,
Nilgiris District.
- 3.The Judge,
Family Court,
Coimbatore.

+2cc's to Mr.A.S.Vijayaragavan, Advocate, S.R.No.65549

Transfer CMP Nos.154 and 370 of 2015

RJ(CO)
CA(14/12/2016)



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