

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.218 of 2015

M.Usharani

...Petitioner

versus

M.Murugavelan

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw FCOP No.157 of 2014 on the file of Family Court, Salem and transfer to the file of Sub-Court, Tiruchengode, to be tried along with HMOP No.89 of 2014.

For Petitioner : Mr.S.Umapathy
For Respondent : No appearance

O R D E R

The respondent in FCOP No.157 of 2014 on the file of Family Court at Salem is the petitioner in this transfer petition.

2. Heard the learned counsel for the petitioner.

3. None appears on behalf of the respondent in spite of printing his name in the cause list after service.

4. The respondent initiated proceedings in FCOP No.157 of 2014 before the Court below praying for a decree of divorce. The matter is now pending on the file of Family Court at Salem. The petitioner, in the mean time filed HMOP No.89 of 2014 before the Sub-Court, Tiruchengode praying for a decree under Section 9 of the Hindu Marriage Act. The said proceeding is also pending before the Trial Court.

5. The petitioner is residing at Alampalayam of Tiruchengode Taluk in the district of Namakkal. According to the petitioner, she has to maintain her daughter, aged about 10 years. It is the grievance of the petitioner that it would not be possible for her to appear before the Court at Salem for the purpose of defending the proceedings in FCOP No.157 of 2014.

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 in her affidavit filed in support of the transfer petition indicated her difficulties in conducting the proceedings before the Family Court at Salem. There is nothing on record to suspect the bonafides in filing this transfer petition. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in F.C.O.P.No.157 of 2014 is withdrawn from the file of Family Court, Salem and is transferred to the file of Subordinate Court, Tiruchengode, for disposal along with HMOP No.89 of 2014.

9. The Transfer Civil Miscellaneous Petition is allowed as indicated above. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

- 1.The Judge, Family Court, Salem
- 2.The Subordinate Court, Tiruchengode

+ 1 c.c to M/R.S.UMAPATHY, Advocate Sr.No.58301

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