

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.282 of 2015 and
MP.No.1 of 2015

M.Nirmala Devi

...Petitioner

versus

Dr.K.Parthiban

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw HMOP No.9 of 2015 pending on the file of Sub-Court, Kulithalai and transfer the same to the file of Family Court, Chennai to try along with O.P.No.2984 of 2012 and O.P.No.871 of 2014 both pending before the II Additional Family Court at Chennai.

For Petitioner : Mr.A.Arulmozhi
For Respondent : Mr.S.Jayavel

O R D E R

The respondent in HMOP No.9 of 2015 on the file of Sub-Court at Kulithalai, is the petitioner in this transfer petition.

2. The petitioner filed HMOP No.2984 of 2012 before the II Additional Family Court at Chennai, invoking Section 9 of the Hindu Marriage Act. The respondent filed O.P.No.871 of 2014 before the II Additional Family Court at Chennai, again for restitution of conjugal rights. While both the proceedings were pending before the II Additional Family Court, the respondent initiated proceedings in HMOP No.9 of 2015 before the Sub-Court at Kulithalai, praying for a decree of divorce. The proceedings are pending before the respective Courts.

3. The petitioner, who is a resident of Thiruvannamiyur has come up with this petition for transfer on the ground that it would not be possible for her to appear before the Sub-Court at Kulithalai for the purpose of defending the proceedings in HMOP No.9 of 2015.

4. The learned counsel for the respondent fairly submitted that the respondent has no objection in transferring the proceedings to II Additional Family Court at Chennai. The respondent seeks an order for disposal of the proceedings as expeditiously as possible.

5. There are three proceedings now pending before the respective Courts. In case, these proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

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 The proceedings in H.M.O.P.No.9 of 2015 is withdrawn from the file of Sub-Court, Kulithalai and is transferred to the file of II Additional Family Court, Chennai, for disposal along with O.P.No.2984 of 2012 and O.P.No.871 of 2014.

9. The matrimonial proceedings were initiated in 2012. The parties subsequently settled the matter. Thereafter, once again, the parties initiated matrimonial proceedings. In view of the background facts, the learned II Additional Judge, Family Court, Chennai, is directed to dispose of the matrimonial proceedings as expeditiously as possible and in any case, on or before 30.04.2017.

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

svki

To

1.The Sub-Court, Kulithalai

2.The II Additional Family Court, Chennai

1cc to Mr.S. Jayavel, Advocate SR.64716

Transfer CMP No.282 of 2015

KS (CO)

EU 09.12.16