

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Tr.CMP.No.311 of 2015
and MP.No.1 of 2015

Ramya

...Petitioner

Vs

Nagarasu

...Respondent

Prayer: Transfer Petition filed under Section 24 of Civil Procedure Code, praying to withdraw the case in HMOP.No.58/2014 on the file of the Subordinate Court at Mannarkudi and transfer the same to the Family Court, Pondicherry.

For Petitioner :Mr.V.Karnan

For Respondent :Mr.S.Arivazhagan

ORDER

This Transfer Petition, at the instance of the respondent in HMOP.No.58 of 2014 on the file of the Subordinate Court, Mannargudi, seeks an order of transfer of the proceedings to the Family Court, Pondicherry.

2. The marriage of the petitioner with the respondent was solemnized on 02.2.2014 in accordance with Hindu rites and customs.

3. The respondent filed a divorce petition in HMOP.No.58 of 2014 on the ground that the petitioner is mentally unsound. The petitioner, on appearance, before the trial Court, filed this application for transfer.

4. The learned counsel for the petitioner contended that the petitioner is residing at Pondicherry, and as such, it would not be possible for her to travel all along for the purpose of prosecuting the proceedings pending before the Court at Mannargudi.

5. The learned counsel for the respondent vehemently opposed the prayer for transfer. According to the counsel, there would not be any difficulty for the petitioner to appear before the Court at Mannargudi and prosecute the proceedings.

6. The respondent filed the divorce petition before the Subordinate Court at Mannargudi, on the ground that the petitioner is mentally ill. The contention is opposed by the petitioner.

7. The wife is given a statutory protection under Section 19(iii) of the Hindu Marriage Act, 1955 to file matrimonial proceedings before the Court under whose jurisdiction she is residing at the time of institution of the proceedings.

8. Since the respondent has filed the divorce petition on the ground that the petitioner is mentally ill, necessarily the matter should be transferred to a Court where it is possible for the petitioner to appear without any difficulty.

9. In the result, the proceedings in HMOP.No.58 of 2014 is withdrawn from the file of Subordinate Court, Mannargudi, and is transferred to the Family Court, Pondicherry, for disposal on merits.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds

To

1. The Subordinate Judge, Mannarkudi.

2. The Judge, Family Court, Pondicherry.

+ 1 cc to M/s. S. Arivazhangan, Advocate SR.51989

+ 1 cc to Mr. V. Karan, Adovcate SR.52100

Tr.CMP.No.311 of 2015

and

MP.No.1 of 2015

ALA(CO)

Eu 28.09.16