

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.315 of 2015

and MP.No.1 of 2015 & CMP No.12604 of 2016

R.Amudha

...Petitioner

versus

K.Anand

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw FCOP.No.564 of 2014 pending on the file of the learned Judge, Family Court at Salem and transfer the same to the file of Family Court at Thiruvannamalai District.

For Petitioner : Mr.M.Jaikumar
For Respondent : Ms.R.Deepa

O R D E R

The petitioner has filed this transfer petition to transfer the proceedings in F.C.O.P.No.564 of 2014 pending on the file of the learned Judge, Family Court at Salem to the file of Family Court at Thiruvannamalai District.

2. The respondent initiated proceedings on the file of Family Court, Salem in FCOP No.564 of 2014 under Section 9 of the Hindu Marriage Act. The respondent filed another petition in G.O.P.No.10 of 2015, claiming custody of the minor child. The proceedings are pending before the Family Court, Salem.

3. The petitioner, who is a resident of Tiruvannamalai seeks an order for transfer of the original proceedings in F.C.O.P.No.564 of 2014 from Salem to Tiruvannamalai.

4. The learned counsel appearing for the respondent has submitted that the petitioner never appeared before the Family Court at Salem and the present attempt is only to drag on the proceedings. The learned counsel further submitted that the

petitioner was set exparte in G.O.P.No.10 of 2015 on the file of Family Court, Salem. According to the learned counsel, the respondent would co-operate for an early disposal of the matter before the Family Court, Salem and as such there is no need to transfer the proceedings to the file of Family Court, Tiruvannamalai.

5. It is the contention of the petitioner that she has to appear before the Family Court, Salem alongwith her minor child, who is aged about 2 years. The distance between Tiruvannamalai to Salem is about 200 kilometers and as such the petitioner would not be in a position to appear before the trial Court on the dates of hearings.

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 respondent is stated to be doing business. The petitioner is unemployed. She has to take care of her minor child. It would not be in the interest of the petitioner and her minor daughter to continue the proceedings before the Family Court, Salem.

8. The petitioner has produced sufficient materials justifying the transfer of proceedings from the file of Family Court, Salem to the file of Family Court, Thiruvannamalai. There is nothing on record to disbelieve the case pleaded by the petitioner. I am therefore of the view that the petitioner has made out a case for transfer.

9. The proceedings in FCOP No.564 of 2014 is withdrawn from the file of Family Court, Salem and is transferred to the file of Family Court, Tiruvannamalai for disposal on merits. The learned trial Judge is directed to dispose of the matter as expeditiously as possible.

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

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

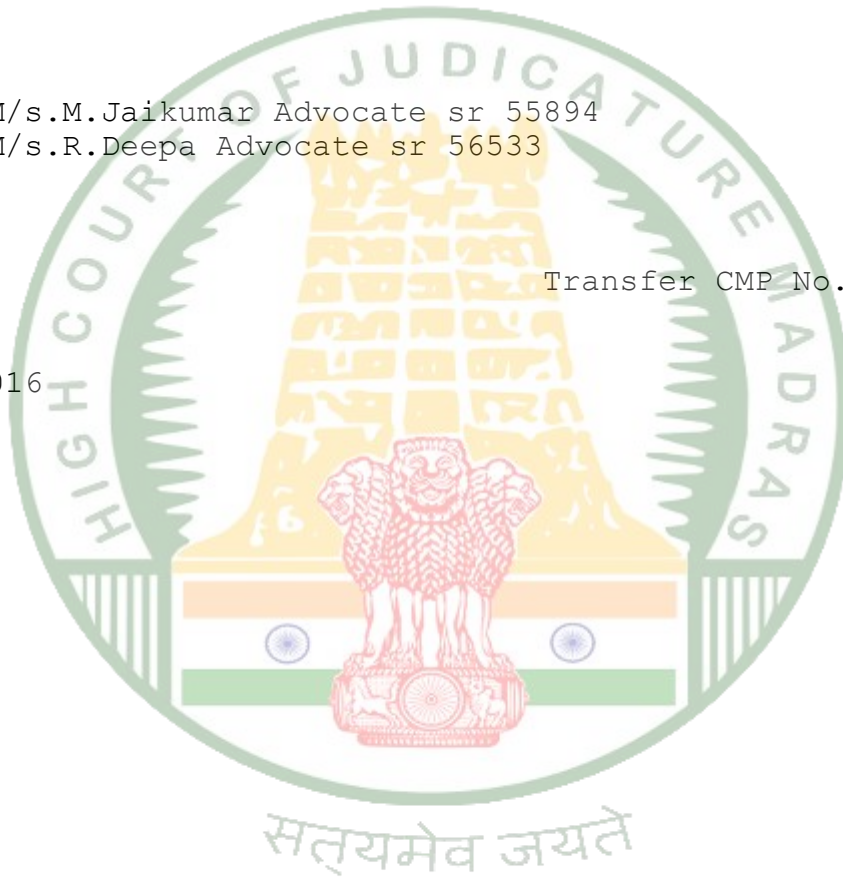
1.The Judge,
Family Court,
Salem.

2.The Judge,
Family Court,
Thiruvannamalai District.

+1 cc to M/s.M.Jaikumar Advocate sr 55894
+1 cc to M/s.R.Deepa Advocate sr 56533

Transfer CMP No.315 of 2015

aa19/10/2016



WEB COPY