

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.389 of 2015

V.Gayathri

...Petitioner

versus

K.Baskar @ Janarthanan

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to order transfer of FCOP No.134 of 2015 pending on the file of the Family Court at Chengalpattu to the Sub Court at Tambaram and tried along with HMOP No.663 of 2014.

For Petitioner : Mr.G.Justin

For Respondent : Mr.S.R.Balasubramaniam

O R D E R

The petitioner filed HMOP No.663 of 2014 before the Subordinate Court at Tambaram, praying for a decree of divorce. The respondent, on the other hand, filed FCOP No.134 of 2015 before the Family Court at Chengelpet, invoking Section 9 of the Hindu Marriage Act. The petitioner now seeks an order to transfer the proceedings in FCOP No.134 of 2015 to the Subordinate Court at Tambaram for disposal along with HMOP No.663 of 2014.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. There are two proceedings pending before two different Courts. The proceeding for restitution of conjugal rights is pending on the file of Family Court at Chengalpet. The proceeding for divorce initiated by the petitioner is pending on the file of Subordinate Court at Tambaram. In case these two proceedings are taken up by two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

4. 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.

5. In view of the pendency of two proceedings, the petitioner is perfectly correct in her contention that one such petition deserves to be transferred.

6. In the result, the proceeding in F.C.O.P.No.134 of 2015 is withdrawn from the file of Family Court at Chengelpet and is transferred to the file of Subordinate Court, Tambaram for disposal along with HMOP No.663 of 2014. The learned trial Judge is directed to dispose of the petitions as expeditiously as possible.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. Family Court at Chengalpattu.

2. Sub Court, Tambaram.

सत्यमेव जयते

Transfer CMP No.389 of 2015

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srg 25/11/2016

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