

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.561 OF 2015

AND MP NO.1 OF 2015

M.Rajalakshmi

... Petitioner

Versus

Muralidaran

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the H.M.O.P.No.238 of 2011 from the Principal Subordinate Court at Thiruchirapalli and transfer the same to the Subordinate Court at Ariyalur.

For Petitioner : Mr.R.Arunmozhi

For Respondent : Mr.R.Gokulakrishnan

O R D E R

The respondent filed an Original Petition in H.M.O.P.no.238 of 2011 before the Principal Sub Court at Thiruchirapalli, against the petitioner, praying for a decree of divorce.

2. The petitioner, on the other hand, instituted a proceedings in H.M.O.P.No.57 of 2012, before the Sub Court at Ariyalur, praying for a decree of divorce. The petitioner has come up with this Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.238 of 2011, from the file of Principal Sub Court, Thiruchirapalli, to the file of Sub Court, Ariyalur, for disposal, along with H.M.O.P.No.57 of 2012.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. There are two proceedings now pending before two different Courts. The prayer in both the Original Petitions are one and the same. The petitioner seeks divorce. The respondent also seeks divorce. In case, these two proceedings are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter. I am therefore of the view that the Transfer Civil Miscellaneous Petition deserves to be allowed.

5. Section 19(iii-a) of the Hindu Marriage Act, 1955, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

6. Since there are two proceedings now pending before two different Courts, in the very same subject matter, I am of the view that the Transfer Civil Miscellaneous Petition deserves to be allowed.

7. The proceedings H.M.O.P.No.238 of 2011 is withdrawn from the file of Principal Sub Court, Thiruchirapalli, and is transferred to the file of Sub Court, Ariyalur, for disposal along with H.M.O.P.No.57 of 2012.

8. The Transfer Civil Miscellaneous Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

TK

To

1.The Principal Sub Judge,
Thiruchirapalli.

2.The Sub Judge,
Ariyalur.

+1 cc to Mr.R.Arunmozhi Avocate sr 59798

TR CMP NO.561 OF 2015

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