

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR.CMP NO.574 OF 2015

AND

M.P NO.1 OF 2015

S.P.Padmini

... Petitioner

versus

D.Manikandan

.... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the H.M.O.P.No.69 of 2015 pending on the file of Principal Sub Court at Tindivanam and transfer the same to the file of Family Court, Chennai.

For Petitioner : Mr.A.Arul Mozhi

For Respondent : Mr.M.Sankar

O R D E R

The respondent initiated proceedings in H.M.O.P. No.69 of 2015, before the Principal Sub Court, Tindivanam, against the petitioner, praying for a decree of divorce. The petitioner, on receipt of notice from the Trial Court, filed this petition for transfer.

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

3. The proceedings in H.M.O.P.No.69 of 2015 was instituted by the respondent, before the Principal Sub Court, Tindivanam, praying for a decree of divorce.

4. The petitioner is presently residing at Singapore. The respondent is also at Singapore. The parties have to come from Singapore to Chennai for the purpose of conducting the proceedings before the Sub Court, Tindivanam.

5. The petitioner is a permanent resident of Chennai. According to the petitioner, it would be difficult for her to appear before the Trial Court as she has to come from Singapore by air and to proceed to Tindivanam by road.

6. Since the respondent is also presently residing at Singapore, it would not be difficult for him to appear before the Family Court at Chennai, in case, the matter is transferred from the file of Principal Sub Court, Tindivanam. The only apprehension raised by the learned counsel for the respondent is that the respondent has to appear personally before the Family Court and it would not be possible for him to obtain an order to dispense with his personal presence.

7. 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.

8. The petitioner has produced sufficient materials justifying transfer. In fact, there is nothing on record suspecting the bonafides in filing this transfer petition. I am therefore of the view that the transfer petition deserves to be allowed.

9. The proceedings in H.M.O.P.No.69 of 2015 is withdrawn from the file of Principal Sub Court, Tindivanam and is transferred to the file of First Additional Family Court, Chennai.

10. The respondent is given liberty to file appropriate application before the Trial Court, to dispense with his personal appearance, on the normal dates of hearing, subject to the condition that he would appear on all the effective dates of hearing. In case, any such application is filed, the same shall be considered by the learned Trial Judge, taking into account the preoccupation of the respondent at Singapore.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Principal Sub Court

Tindivanam,

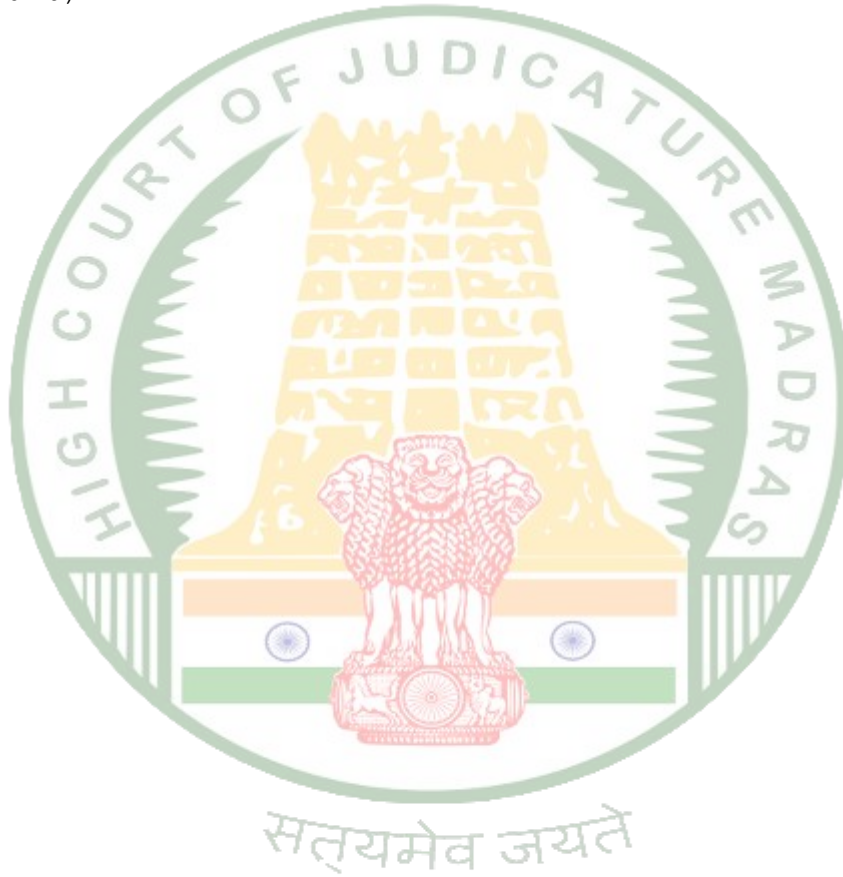
<https://hcservices.ecourts.gov.in/hcservices/>

2. The First Additional Family Court
Chennai.

+1cc to Mr.M.Sankar, Advocate, S.R.No.59710
+1cc to Mr.A.Arul Mozhi, Advocate, S.R.No.59344

TR.C.M.P.NO.574 OF 2015

CP(CO)
CA(23/11/2016)



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