

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.593 of 2015 and

MP.No.1 of 2015

Nagajothi ...Petitioner

versus

G.Vijay ...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw the proceedings in HMOP No.354 of 2015 on the file of Sub-Court, Tambaram and transfer the same to Family Court, Coimbatore.

For Petitioner : Mr.G.Rajan

For Respondent : Mr.P.Amarnath

O R D E R

The respondent initiated proceedings in HMOP No.354 of 2015 before the Sub-Court at Tambaram, praying for a decree of divorce. The petitioner is before this Court with a request to transfer the matrimonial proceedings to a Court at Coimbatore.

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

3. The transfer petition is opposed by the respondent on the ground that the petitioner is presently employed at Bangalore. According to the learned counsel, in view of the employment and residence of the petitioner at Bangalore, there is no need to transfer the proceedings from Tambaram to Coimbatore.

4. The learned counsel for the petitioner contended that after filing this transfer petition, the petitioner filed O.P.No.258 of 2016 before the Family Court at Coimbatore, invoking Section 9 of the Hindu Marriage Act. The said proceeding is pending before the Family Court at Coimbatore.

5. The petitioner is stated to be a resident of Coimbatore. According to the petitioner, it would not be possible for her to travel all along from Coimbatore to Chennai for the purpose of defending the proceedings in HMOP No.354 of 2015.

6. Even if the petitioner is employed at Bangalore, the proceedings could be transferred to the Court at Coimbatore, in view of the pendency of the connected proceedings in O.P.No.258 of 2016.

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 her request for transfer. I am therefore of the view that the transfer petition deserves to be allowed.

9. The proceedings in H.M.O.P.No.354 of 2015 is withdrawn from the file of Sub-Court, Tambaram and is transferred to the file of Family Court, Coimbatore, for disposal on merits.

10. The learned counsel for the respondent submitted that the respondent is an employee at Chennai and as such, liberty should be given to him to file appropriate application before the Trial Court to dispense with his personal appearance.

11. 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 and would cooperate for an early disposal of the matrimonial proceedings. In case, any such application is filed, the same shall be considered by the learned Trial Judge taking into account the employment and residence of the respondent at Chennai.

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

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

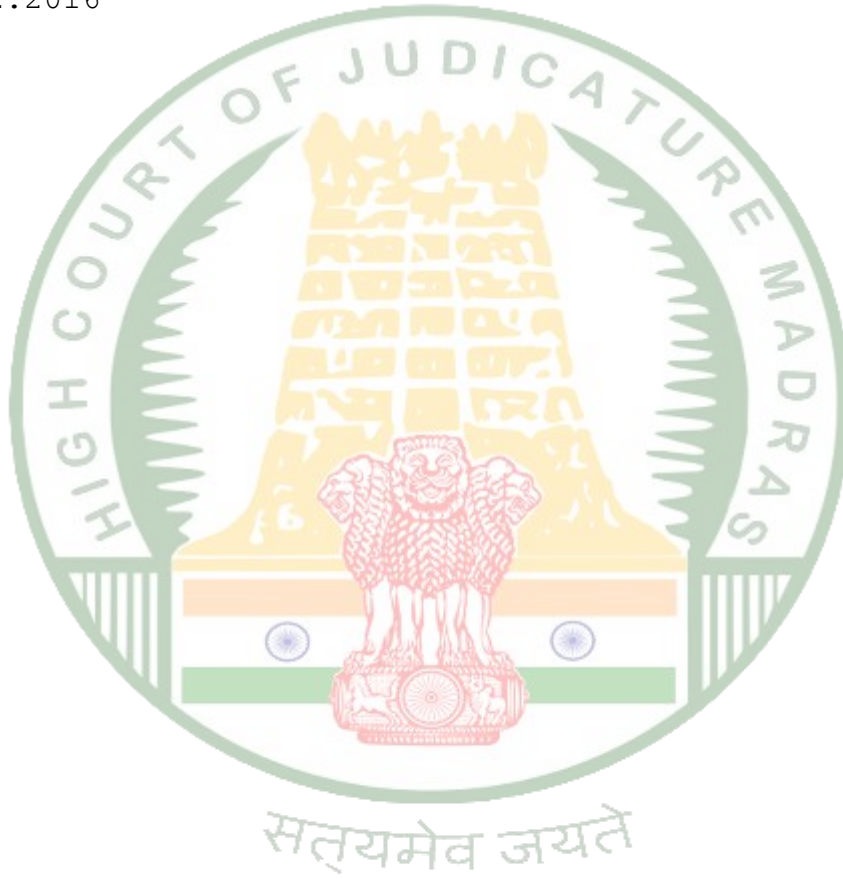
To
1.The Subordinate Judge,

2.The Family Court,
Coimbatore

+1cc to Mr.G.Rajan, Advocate SR.No.70431

Transfer CMP No.593 of 2015

SDR 30.12.2016



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