

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.612 of 2015
and
MP.No.1 of 2015

Kalaiselvi

... Petitioner

versus

N.Babu

... Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP No.227 of 2013 pending on the file of learned Subordinate Judge, Kumbakonam and transfer the same to the Sub-Court at Thiruvannamalai for conducting a joint trial along with HMOP No.160 of 2013 pending on the file of Sub-Court at Thiruvannamalai filed by the petitioner.

For Petitioner : Mr.A.Rajesh Kanna

For Respondent : Mr.S.Sathia Chandran

O R D E R

The respondent initiated a proceeding in HMOP No.227 of 2013 against the petitioner before the Sub-Court, Kumbakonam, praying for a decree of divorce. The petitioner, on the other hand, filed HMOP No.160 of 2013 before the Sub-Court at Tiruvannamalai, praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner has come up with this petition for transfer of the proceedings from the Sub-Court at Kumbakonam to the file of Sub-Court at Tiruvannamalai, for disposal along with HMOP No.160 of 2013.

2. The respondent filed a counter affidavit, wherein, it was contended that the allegations made in the transfer petition are absolutely false.

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

4. There are two proceedings now pending the parties. The proceedings in HMOP No.227 of 2013 for divorce is pending before the Sub-Court at Kumbakonam. The proceedings initiated by the petitioner under Section 9 of the Hindu Marriage Act is pending on the file of Sub-Court at Tiruvannamalai. In case,

these two proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

5. 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.

6. 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.

7. The proceedings in H.M.O.P.No.227 of 2013 is withdrawn from the file of Sub-Court, Kumbakonam and is transferred to the file of Sub-Court, Tiruvannamalai for disposal along with H.M.O.P.No.160 of 2013.

8. The learned Subordinate Judge, Tiruvannamalai is directed to refer the parties to mediation before taking up the matter for trial. In short, it should be the endeavour of the Trial Court to arrive at a settlement among the parties before deciding the lis.

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

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

svki

To

1.The Sub Judge,
Kumbakonam.

2.The Sub Judge,
Tiruvannamalai.

+1cc to Mr.A.Rajesh Kanna, Advocate, S.R.No.62932

+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No.62927

Transfer CMP No.612 of 2015

AK(CO)

CA(02/12/2016)

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