

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

Tr.C.M.P.No.650 of 2015

and M.P.No.1 of 2015

Siva Satya

... Petitioner

Versus

Veeramani

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.71 of 2015 from the file of the Family Court, Tiruchirapalli and transfer the same to the file of the Sub Court, Nagapattinam for joint trial along with H.M.O.P.No.81 of 2015.

For Petitioner : Mr.S.Sounthar

For Respondent : Mr.P.Kannan Kumar

ORDER

The respondent in H.M.O.P.No.71 of 2015 on the file of the Family Court, Tiruchirapalli, is the petitioner in the Transfer Petition.

2. The petitioner initiated a proceedings before the Sub Court, Nagapattinam, in H.M.O.P.No.81 of 2015 under Section 9 of the Hindu Marriage Act, 1955. The respondent on the other hand filed H.M.O.P.No.71 of 2015 before the Family Court, Tiruchirapalli, praying for a decree of divorce.

3. The petitioner on receipt of notice from the Trial Court filed this petition for transfer.

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

5. There are two proceedings now pending before two different Courts. The divorce petition filed by the respondent is pending on the file of Family Court, Tiruchirapalli. The other proceedings in H.M.O.P.No.81 of 2015 initiated by the petitioner for restitution of conjugal rights is pending on the file of Sub Court, Nagapattinam. The petitioner is a resident of Anthanapettai, Nagapattinam District.

6. 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.

7. The petitioner has produced sufficient materials justifying the request for transfer. There is nothing on record to suspect the bona fides in filing the transfer petition. Moreover, if 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. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in H.M.O.P.No.71 of 2015 is withdrawn from the file of Family Court, Tiruchirapalli and is transferred to the file of Sub Court, Nagapattinam, for disposal along with H.M.O.P.No.81 of 2015.

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

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Sd/-
Assistant Registrar
/TRUE COPY/
Sub-Assistant Registrar

To

1. The Family Court,
Tiruchirapalli.
2. The Sub Court,
Nagapattinam.

+1CC to MR.S.SOUNTHAR Advocate SR.NO.60861

Tr.C.M.P.No.650 of 2015

MK:25/11/2016

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