

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.681 of 2015
and
MP.No.1 of 2015

M.Sridevi @ Kalpana ...Petitioner

versus

C.RajaRespondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to order for withdrawal and transfer of HMOP No.84 of 2015 pending on the file of Sub-Court, Cheyyar to Family Court, Chennai.

For Petitioner : Mr.A.Murali

For Respondent : Mr.S.V.Jayaraman, Senior Counsel
for Mr.S.Makesh

O R D E R

The respondent initiated a proceedings in HMOP No.84 of 2015 before the Sub-Court at Cheyyar. The petitioner, on the other hand instituted a proceedings in HMOP No.1728 of 2016 before the learned Principal Judge, Family Court at Chennai, invoking Section 9 of the Hindu Marriage Act. The petitioner has come up with this petition for transfer of the proceedings in HMOP No.84 of 2015 from the Sub-court, Cheyyar to the Family Court at Chennai for disposal along with HMOP No.1728 of 2016.

2. The transfer petition is opposed by the respondent by filing counter affidavit. According to the respondent, it was only to put pressure on him, the petitioner, after service of notice in HMOP No.84 of 2015 instituted the proceedings in HMOP No.1728 of 2016 before the Family Court at Chennai. The respondent further contended that he is prepared to bear the expenses of the petitioner for continuing the proceedings before the Sub-Court at Cheyyar.

3. The petitioner filed a rejoinder affidavit and denied the contentions taken by the respondent in the counter affidavit.

4. According to the petitioner, in case, the matter is transferred to the Court at Poonamallee, she has to spend a sum of Rs.1000/- as travelling cost per day, besides litigation expenses.

5. The learned counsel for the petitioner contended that there are several proceedings pending between the parties. According to the learned counsel, it would be in the interest of both the parties, in case the proceedings in HMOP No.84 of 2015 is transferred to the Family Court at Chennai for disposal along with the matrimonial proceedings initiated by the petitioner.

6. The learned Senior Counsel appearing for the respondent submitted that the petitioner is presently residing at Mogappair. According to the learned Senior Counsel, the respondent is agreeable for transfer of the proceedings to the Sub-Court at Poonamallee, which is just 12 kms away from the residence of the petitioner. The learned Senior Counsel further contended that to appear before the Family Court at Chennai, the petitioner has to travel 12 kms from her residence and as such, there would not be any difficulty for appearing before the Sub-Court at Poonamallee. The learned Senior Counsel submitted that the respondent is prepared to bear the travelling expenses of the petitioner, besides reasonable amount towards litigation expenses.

7. There are two proceedings now pending before two different Courts. The earliest proceedings initiated by the respondent in HMOP No.84 of 2015 is pending before the Sub-Court, Cheyyar. It is a matter of record that only after the initiation of the said proceedings, the petitioner filed HMOP No.1728 of 2016 before the Family Court at Chennai.

8. The petitioner is a resident of Mogappair. The respondent is a resident of Guduvancherry. The petitioner wanted the proceedings pending before the Sub-Court, Cheyyar to be transferred to the Family Court at Chennai. The respondent has made a reasonable suggestion to transfer the proceedings to the Sub-Court at Poonamallee. According to the respondent, the petitioner has to travel about 12 kms to reach the Family Court at Chennai from her residence. The same is the distance between Mogappair to the Sub-Court at Poonamallee. Moreover, the respondent is prepared to bear the

entire travelling expenses and pay the litigation expenses to the petitioner.

9. Since there are matrimonial proceedings pending between the parties, necessarily, one of such proceeding should be transferred. The petitioner filed this transfer petition by stating that she is residing at T.Nagar, Chennai. Even in the cause title, it is shown that she is a permanent resident of East Mogappair. The distance between Mogappair to Poonamallee is hardly 12 kms. The petitioner has to travel from Mogappair to Chennai, in case, the matter is kept pending before the Family Court at Chennai. The travelling time would be less, in case, she travels from Mogappair to Poonamallee. I am therefore of the view that the transfer petition deserves to be disposed of taking into account the submission made by the learned Senior Counsel for the respondent.

10. The proceedings in HMOP.No.84 of 2015 is withdrawn from the file of Sub-Court, Cheyyar and is transferred to the file of Sub-Court, Poonamallee. Similarly, the proceedings in HMOP No.1728 of 2016 is withdrawn from the file of Principal Judge, Family Court, Chennai and is transferred to the file of Sub-Court, Poonamallee.

11. The respondent is directed to pay a sum of Rs.1500/- per appearance to the petitioner for attending the proceedings before the Sub-Court at Poonamallee. The payment shall be made directly. There shall be a further direction to the respondent to pay the litigation expenses quantified at Rs.30,000/- (Rupees Thirty Thousand only). The amount shall be paid within a period of four weeks from today.

12. The learned Subordinate Judge, Poonamallee is requested to dispose of the matrimonial proceedings as expeditiously as possible.

13. The Transfer Civil Miscellaneous Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

svki

To

1. The Subordinate Judge,
Cheyyar

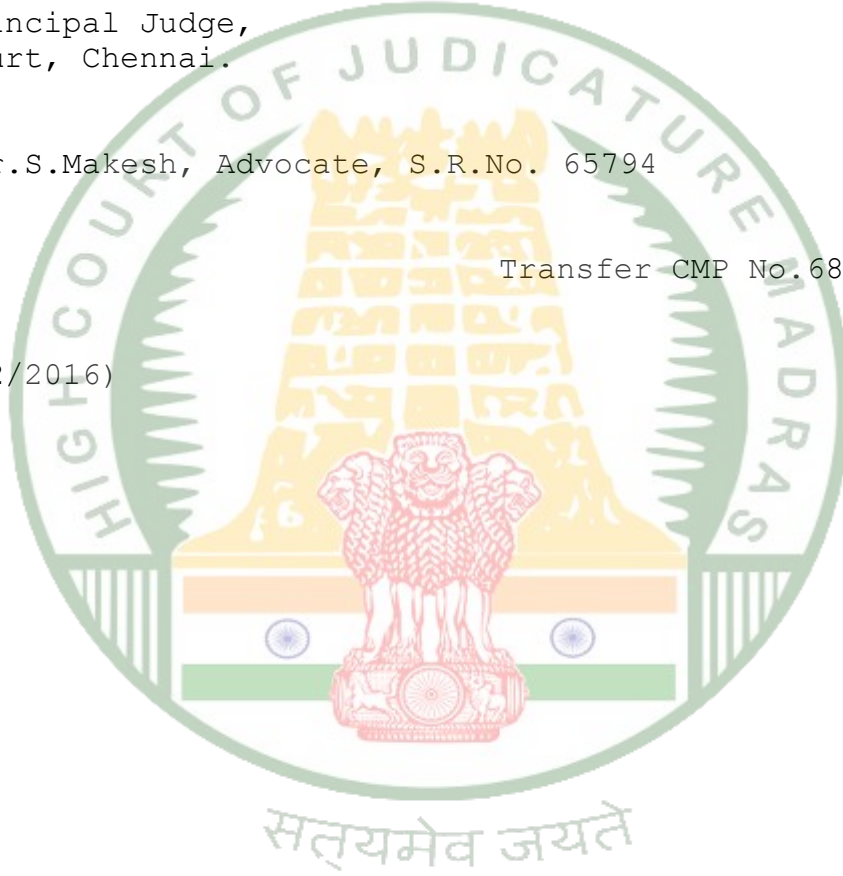
2. The Subordinate Judge,
Poonamallee

3. The Principal Judge,
Family Court, Chennai.

+1cc to Mr.S.Makesh, Advocate, S.R.No. 65794

Transfer CMP No.681 of 2015

EV (CO)
PSI (02/12/2016)



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