

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.682 of 2015 and
MP.No.1 of 2015

S.Sivaranjani

...Petitioner

versus

S.Ram Prasath

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.643 of 2013 on the file of Sub-Court, Tiruchirapalli and transfer the same to the Family Court at Chennai.

For Petitioner : Mr.K.Thangavelu

For Respondent : Mr.K.Govindarajan

O R D E R

The respondent initiated proceedings in HMOP No.643 of 2013 before the Sub-Court at Tiruchirapalli, praying for a decree of divorce. The petitioner, who is a resident of Arumbakkam, Chennai, is before this Court with a prayer for transfer.

2. The learned counsel for the respondent fairly submitted that the respondent has no objection in transferring the proceedings. According to the learned counsel, liberty may be given to the respondent to file application to dispense with his personal presence before the Trial Court, in case, the matter is transferred.

3. The petitioner is a resident of Arumbakkam at Chennai. The proceedings in HMOP No.643 of 2013 is pending before the Sub-Court at Tiruchirappalli. According to the petitioner, it would not be possible for her to defend the proceedings in HMOP No.643 of 2013 in case the same is continued before the Sub-Court at Tiruchirappalli.

4. 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.

5. The petitioner has produced sufficient materials justifying her request for transfer. Moreover, the respondent has no objection in transferring the proceedings. I am therefore of the view that the transfer petition deserves to be allowed.

6. The proceedings in H.M.O.P.No.643 of 2013 is withdrawn from the file of Sub-Court, Tiruchirappallil and is transferred to the file of Family Court, Chennai, for disposal on merits.

7. 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 residence of the respondent at Tiruchirappalli.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub-Court, Tiruchirappalli.

2.The Family Court, Chennai.

Transfer CMP No.682 of 2015

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srg 26/12/2016