

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.692 of 2015 and
MP.No.1 of 2015

Sivaselvi

...Petitioner

versus

Subramanian

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw HMOP No.129 of 2012 on the file of Sub-Court, Namakkal and transfer the same to the file of Sub-Court, Karur.

For Petitioner : Mr.P.R.Balasubramanian
For Respondent : Mr.B.Sundarapandian

O R D E R

The respondent initiated proceedings in HMOP No.129 of 2012 before the Sub-Court, Namakkal, praying for a decree of divorce. The petitioner, on the other hand filed HMOP No.148 of 2012 before the Sub-Court, Karur and obtained a decree under Section 9 of the Hindu Marriage Act. The petitioner has come up with this petition for transfer on the ground that it would not be possible for her to appear before the Sub-Court at Namakkal.

2. The learned counsel for the petitioner contended that the petitioner is residing at Karur along with her three years old child and as such, it would be very difficult for her to appear before the Sub-Court at Namakkal for the purpose of defending the proceedings in HMOP No.129 of 2012.

3. The learned counsel for the respondent on the other hand submitted that the petitioner has already cross examined P.W.1 and the matter is now posted for the evidence on the side of the petitioner. According to the learned counsel, the distance between Namakkal and Karur is hardly 40 kms and as such, it would be possible for the petitioner to appear before the Court at Namakkal for giving evidence. The learned counsel further contended that being a Sub-Court, the personal appearance of the petitioner is not necessary on all the hearing dates.

4. The proceedings in HMOP No.129 of 2012 was instituted by the respondent, praying for a decree of divorce. It was only after three years, the petitioner filed the present petition for transfer. The factual matrix indicates that the Trial Court has already recorded the evidence of P.W.1. In fact, P.W.1 was cross examined by the petitioner. Now it is the turn of the petitioner to lead evidence. Being a Sub-Court, the personal appearance of the petitioner is not a requirement for disposal of the matter. The petitioner can very well appear through a counsel and defend the proceedings in HMOP No.129 of 2012. I am therefore of the view that the petitioner has not made out a case for transfer at this point of time.

5. The respondent is directed to pay travelling expenses calculated at the rate of Rs.250/- per day to the petitioner. The expenses should be paid only in case the petitioner appears in person before the Trial Court.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

svki

To

The Sub-Court, Namakkal

+1cc to M/s. P.R. Balasubramanian, Advocate, S.R.No.61139
+1cc to Mr.B. Sundrapandian, Advocate, S.R.No.61217

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