

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.723 of 2015 and
MP.No.1 of 2015

R.Brindha

...Petitioner

versus

Santhoshkumar

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw FCOP No.69 of 2015 on the file of Family Court, Dharmapuri and to transfer the same to the Sub-Court, Rasipuram.

For Petitioner : Mr.N.Manokaran
For Respondent : Mr.R.Rajaramani

O R D E R

The respondent filed original proceedings in FCOP No.69 of 2015 before the Family Court, Dharmapuri, to dissolve the marriage between the parties by a decree of divorce. The petitioner, on receipt of notice from the Trial Court filed this petition for transfer.

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

3. The proceedings in FCOP No.69 of 2015 is now pending on the file of Family Court at Dharmapuri. The petitioner is a resident of Rasipuram. The respondent, though a resident of Dharmapuri is presently residing at Chennai in connection with his employment. It is the grievance of the petitioner that it would be difficult for her to defend the proceedings, which is now pending on the file of Family Court at Dharmapuri, in view of the distance factor. There is nothing on record to disbelieve the case pleaded by the petitioner.

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 to substantiate her contention that it would be very difficult for her to defend the proceedings, in case the matter is taken

up by the Family Court at Dharmapuri. I am therefore of the view that the transfer petition deserves to be allowed.

6. The proceedings in F.C.O.P.No.69 of 2015 is withdrawn from the file of Family Court, Dharmapuri and is transferred to the file of Sub Court, Rasipuram, for disposal on merits.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. In case, any such application is filed, the same shall be considered by the learned Trial Judge taking into account the employment of the respondent at Chennai.

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

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Family Court, Dharmapuri
- 2.The Subordinate Court, Rasipuram

+1cc to Mr.N. Manoharan, Advocate, S.R.No.62218
+1cc to Mr.V.R. Anna Gandhi, Advocate, S.R.No.61944

MV(CO)
EU(2/12/2016)

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