

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.816 of 2015 and

MP.No.1 of 2015

M.Leela Sathya

...Petitioner

versus

R.Karthik Kumar

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP No.3262 of 2015 on the file of Family Court III, Chennai and transfer the same to Family Court, Salem to be tried along with FCOP No.454 of 2015.

For Petitioner : Mr.R.Nalliyappan

For Respondent : No appearance

O R D E R

The petitioner filed a divorce petition before the Family Court at Salem in FCOP No.454 of 2015. The respondent, on the other hand filed HMOP No.3262 of 2015 before the III Judge, Family Court at Chennai, invoking Section 9 of the Hindu Marriage Act. The petitioner, now seeks an order for transfer of the proceedings in HMOP No.3262 of 2015 from the file of III Family Court, Chennai to the file of Family Court, Salem for joint trial.

2. Heard the learned counsel for the petitioner. None appears on behalf of the petitioner.

3. There are two proceedings now pending before two different Courts. The divorce petition filed by the petitioner in FCOP No.454 of 2015 is pending on the file of Family Court at Salem. The petition filed under Section 9 of the Hindu Marriage Act by the respondent is pending on the file of III Judge, Family Court, Chennai.

4. The petitioner is a resident of Salem. According to the petitioner, it would not be possible for her to appear before the Family Court at Chennai for the purpose of defending the proceedings in HMOP No.3262 of 2015. There is nothing on record to disbelieve the case pleaded by the petitioner.

5. 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.

6. There are two proceedings pending before two different Courts. In case, 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 petitioner has made out a case for transfer.

7. The proceedings in H.M.O.P.No.3262 of 2015 is withdrawn from the file of Family Court III, Chennai and is transferred to the file of Family Court, Salem for disposal along with FCOP No.454 of 2015.

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

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

svki

To

1.The Judge,
III Family Court, Chennai

2.The Judge,
Family Court, Salem

1 cc to M/s.R. Nalliyappan, Advocate, Sr. 60491

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Transfer CMP No.816 of 2015

RP (CO)
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