

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.817 of 2015 and

MP.No.1 of 2015

T.Shanti

...Petitioner

versus

P.Vijayakumar

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw the suit in O.S.No.52 of 2015 on the file of Sub-Court, Tiruchengode and transfer the same to Sub-Court, Tiruvannamalai.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.D.Shivakumaran

O R D E R

The respondent instituted a suit for money against the petitioner in O.S.52 of 2015 before the Sub-Court, Tiruchengode. The petitioner filed a written statement and contested the suit. Thereafter, the petitioner filed this petition for transfer on the ground that it would be difficult for her to appear before the Sub-Court at Tiruchengode for the purpose of defending the proceedings.

2. The learned counsel for the petitioner submitted that the petitioner has undergone a surgery and as such, it would not be possible for her to appear before the Trial Court till the disposal of the suit.

3. The learned counsel for the respondent on the other hand submitted that the petitioner need to appear before the Court only on a specific date for cross-examination. According to the learned counsel, the respondent would complete the cross-examination on the very same day and as such, there is no requirement for the appearance of the petitioner before the Trial Court on all the dates of hearing.

4. The suit in O.S.No.52 of 2015 was instituted by the respondent against the petitioner for recovery of money. The petitioner has no case that the Sub-Court at Tiruchengode has no jurisdiction to entertain the suit. The transfer petition is filed only on the ground that being a resident of Thiruvannamalai and on account of certain illness, it would not

be possible for her to appear before the Sub-Court at Tiruchengode.

5. Transfer cannot be made on the sole ground that it would be difficult for the petitioner to appear before the Trial Court. The respondent is prepared to cross-examine the petitioner on a particular date. I am therefore of the view that appropriate orders should be passed taking into account the difficulties expressed by the petitioner and the indulgence shown by the respondent.

6. The learned Trial Judge is directed to post the suit on a particular date for cross-examination of the petitioner, after completion of the evidence on the side of the respondent. The respondent shall cross-examine the petitioner on the very same day without taking adjournment. The learned Judge shall ensure that the petitioner is cross-examined on the date prescribed for such cross-examination. It is open to the petitioner to engage a counsel and represent her on the other dates of hearing without any necessity for personal appearance.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

svki

To

1.The Subordinate Judge
Tiruchengode

+1 cc to M/s.V.Raghavachari Advocate sr 60483
+1 cc to M/s.D.Shivakumaran Advocate sr 60654

Transfer CMP No.817 of 2015

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