

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.823 of 2015 and

MP.No.1 of 2015

T.Vijayamala

...Petitioner

versus

S.N.Murugesan

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP NO.178 of 2015 on the file of the Subordinate Court, Namakkal and to transfer the same to Family Court, Salem.

For Petitioner : Mr. P.Jagadeesan

For Respondent : Mr.R.Prabakar

O R D E R

The respondent in HMOP.No.178 of 2015 pending on the file of Subordinate Court at Namakkal is the petitioner in this transfer petition.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

3. The respondent initiated proceeding in HMOP No.178 of 2015 before the Subordinate Court at Namakkal, praying for a decree of divorce. The petitioner, who is a permanent resident of Salem, has come up with this petition for transfer.

4. The petitioner is working as an Assistant Engineer, Tamil Nadu Electricity Board at Salem. The respondent is a Pharmacist and is running a medical shop at Kalankani in the District of Namakkal. The petitioner is maintaining two minor children. According to the petitioner, it would be very difficult for her to appear before the Subordinate Court at Namakkal for the purpose of defending the proceedings in HMOP No.178 of 2015, in the light of her family condition.

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. The petitioner has produced sufficient materials justifying transfer of the proceedings. I am therefore of the view that the petitioner has made out a case for transfer.

7. The proceeding in HMOP No.178 of 2015 is withdrawn from the file of Subordinate Court at Namakkal and is transferred to the file of Family Court at Salem for disposal on merits.

8. The learned counsel for the respondent submitted that the mother of the respondent is in ailment and as such it would not be possible for him to appear before the Family Court at Salem regularly. The respondent is given liberty to file an application before the Family Court at Salem 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 learned Trial Judge shall consider the same, taking into account the difficulties projected by the respondent.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

ajr

To

1. Subordinate Judge,
Namakkkal

2. Family Court, Judge
Salem

+1 cc to M/s.P.Jagadeesan Advocate sr57559

Transfer CMP No. 823 of 2015

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