

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.829 OF 2015

AND MP NO.1 OF 2015

R.Sharmila

... Petitioner

Versus

L.Ananda Babu

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the case H.M.O.P.No.117 of 2011 on the file of Sub Court, Tambaram and to transfer the same to I Additional Family Court, Chennai, to be heard along with H.M.O.P.No.86 of 2013 pending on its file on the file of I Additional Family Court, Chennai.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : No appearance

O R D E R

The respondent filed Original Petition in H.M.O.P.No.117 of 2011, before the Sub Court, Tambaram, against the petitioner, praying for a decree of divorce.

2. The petitioner, on the other hand, instituted a proceedings in H.M.O.P.No.86 of 2013, before the I Additional Family Court, Chennai, invoking Section 9 of the Hindu Marriage Act.

3. The petitioner has come up with this Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.117 of 2011, from the file of Sub Court, Tambaram, to the file of I Additional Family Court, Chennai, for disposal, along with H.M.O.P.No.86 of 2013.

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

5. There are two proceedings now pending before two different Courts. The prayer in both the Original Petitions are one and the same. The petitioner seeks divorce. The respondent also seeks divorce. In case, these two proceedings 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 Transfer Civil Miscellaneous Petition deserves to be allowed.

6. Section 19(iii-a) of the Hindu Marriage Act, 1955, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

7. The proceedings H.M.O.P.No.117 of 2011 is withdrawn from the file of Sub Court, Tambaram, and is transferred to the file of I Additional Family Court, Chennai, for disposal along with H.M.O.P.No.86 of 2013.

8. The maintenance case instituted by the petitioner in M.C.No.70 of 2015 is now pending on the file of the II Additional Family Court, Chennai.

9. There shall be an order to withdraw the maintenance case in M.C.No.70 of 2015 from the file of the II Additional Family Court and transfer the same to the file of I Additional Family Court, Chennai, for disposal along with two pending proceedings, referred to above.

10. The Transfer Civil Miscellaneous Petition 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

TK

To

1. The Sub Judge
Tambaram.

2. The Judge
The I Additional Family Court
Chennai.

3. The Judge
The II Additional Family Court
Chennai.

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+1 cc to Mr.A.K.Kumarasamy Advocate sr 59872

TR CMP NO.829 OF 2015

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