

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.843 OF 2015

AND

M.P.NO.1 OF 2015

M.Paritha Begam ... Petitioner/Respondent

versus

S.Alaudeen Basha ... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure to withdraw and transfer O.S.No.16 of 2013 from the file of the Family Court, Salem to the file of Sub-Judge, Namakkal.

For Petitioner : Mr.C.Kasirajan

For Respondent : Mr.T.Murugamanickam

O R D E R

The defendant in O.S.No.16 of 2013 on the file of Family Court, Salem has come up with this transfer petition with a grievance that being a resident of Namakkal, it would not be possible for her to appear and defend the proceedings in O.S.No.16 of 2013, which is now pending before the Family Court, Salem.

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

3.The petitioner is a resident of Namakkal. The respondent instituted a suit in O.S.No.16 of 2013 before the Family Court, Salem, praying for a decree of divorce on the ground of cruelty.

4.The petitioner, on the other hand, has filed a Maintenance Case in M.C.No.44 of 2015, before the Sub Court, Namakkal. The Trial Court has passed an order in the said maintenance case and the respondent has been complying with the order granting maintenance.

5.The petitioner, who is stated to be residing along with her parents, wanted the suit in O.S.No.16 of 2013 to be transferred to the Sub Court at Nammal.

6.There is nothing on record to suspect the bonafides in filing this transfer petition. I am therefore of the view that the transfer petition deserves to be allowed.

7.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.

8.The suit in O.S.No.16 of 2013 is withdrawn from the file of Family Court, Salem and is transferred to the file of Sub Court, Namakkal.

9.The learned counsel for the parties jointly submitted that there is a possibility of settlement in case the matter is referred to mediation.

10.The learned Trial Judge is directed to refer the parties for mediation before taking up the matter for disposal on merits.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Family Court
Salem.

2. The Sub Court
Namakkal.

+1cc to Mr.T.Murugamanickam, Advocate, S.R.No.59141

+1cc to Mr.C.Kasirajan, Advocate, S.R.No.59088

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