

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.849 of 2015

S.Lily @ Sowmya

...Petitioner

versus

P.Siva

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer HMOP No.248 of 2012 on the file of Sub-Ordinate Court, Tambaram to the file of I Additional Family Court, Chennai to be tried along with OP.No.3176 of 2015 on the 1st Additional Family Court, Chennai.

For Petitioner : Mr.D.T.Janardhan

For Respondent : Mr.A.Prabakara Reddy
for M/s.APR Associates

O R D E R

The respondent in HMOP No.248 of 2012 on the file of Sub-Court at Tambaram is the petitioner in this transfer petition.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. The respondent filed HMOP No.248 of 2012 before the Sub-Court, Tambaram against the petitioner, praying for a decree of divorce. Subsequently, the petitioner filed OP.No.3176 of 2015 before the I Additional Family Court at Chennai praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner, thereafter, filed this transfer petition.

4. It is the case of the petitioner that she is residing at Chennai along with her 5 years old son and as such, it would be difficult for her to appear before the Court at Tambaram for the purpose of defending the proceedings in HMOP No.248 of 2012.

5. Though the learned counsel for the respondent has taken up a contention that the petitioner is not residing at New Washermanpet, Chennai, there is no evidence produced by him in support of his contention.

6. Even in the petition in HMOP No.248 of 2012, the address of the petitioner herein is mentioned as Thiruvotriyur, Chennai. The divorce proceedings is now pending before the Court at Tambaram. The petition filed by the petitioner under Section 9 of the Hindu Marriage Act is pending before I Additional Family Court, Chennai. I am therefore of the view that it would be in the interest of both the parties to have the matter tried by a particular Court.

7. Moreover, 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. In the result, the proceedings in HMOP No.248 of 2012 is withdrawn from the file of Sub-Court, Tambaram and is transferred to the file of I Additional Family Court, Chennai, for disposal, along with O.P.No.3176 of 2015.

9. The Transfer CMP is allowed as indicated above. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The I Additional Family Court,
Chennai.

2.The Subordinate Judge,
Tambaram.

+1cc to M/S.APR Associates, Advocate Sr.54406
+1cc to Mr.D.T.Janardhanan, Advocate sr.54962

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mg[co]
srg 20/10/2016