

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.861 of 2015 and
MP.No.1 of 2015

K.Padmavathy

...Petitioner

versus

K.Manikandan

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP No.47 of 2015 pending on the file of Subordinate Judge at Ranipet to be heard and disposed of by the Subordinate Judge, Chengalpet.

For Petitioner : Mr.P.Anbarasan
For Respondent : Mr.A.Rajesh Kanna

O R D E R

The respondent instituted a proceedings in HMOP No.47 of 2015 for divorce before the Sub-Court at Ranipet. The petitioner, on receipt of notice from the Trial Court filed this petition for transfer.

2. The learned counsel for the petitioner submitted that during the currency of this transfer petition, the petitioner filed independent proceedings in HMOP No.36 of 2016 before the Sub-Court at Madhuranthagam invoking Section 9 of the Hindu Marriage Act. The learned counsel therefore wanted HMOP No.47 of 2015 to be transferred to the Sub-Court at Madhuranthagam for joint trial.

3. The learned counsel for the respondent submitted that only after filing the divorce petition by the respondent, the petitioner filed the subsequent proceedings for the purpose of dragging the proceedings.

4. The petitioner is a resident of Maduranthagam in the district of Kancheepuram. The proceedings in HMOP No.47 of 2015 is pending on the file of Sub-Court, Ranipet. According to the petitioner, being a resident of Maduranthagam, it would be difficult for her to appear before the Sub-Court at Ranipet for the purpose of defending the proceedings in HMOP No.47 of 2015.

5. It is a matter of record that during the currency of this transfer petition, the petitioner filed HMOP No.36 of 2016 before the Sub-Court at Maduranthagam. It is therefore clear that there are two proceedings pending before two different Courts with regard to the very same subject matter.

6. 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.

7. The petitioner has produced sufficient materials justifying transfer. 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.

8. The proceedings in H.M.O.P.No.47 of 2015 is withdrawn from the file of Sub-Court, Ranipet and is transferred to the file of Sub-Court, Maduranthagam for disposal along with HMOP No.36 of 2016.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Subordinate Judge, Ranipet
- 2.The Subordinate Judge, Chengalpattu.
3. Teh Subordinate Judge, Maduranthagam.

- + 1 cc to Mr.Rajesh Kanna, Advocate Sr.60825
+ 1 cc to Mr.Anbarasan, Advocate SR.60263

Transfer CMP No.861 of 2015

MG(CO)
Eu 25.11.16