

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.913 of 2015 and

MP.No.1 of 2015

D.RupalakshmiPetitioner/Respondent

versus

P.KumarRespondent/Petitioner

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP No.3572 of 2015 pending before the I Additional Family Court, Chennai and transfer the same to the Subordinate Court, Poonamallee.

For Petitioner : Dr.R.Sampathkumar
For Respondent : Mr.R.Bharath Kumar

O R D E R

The respondent initiated proceedings in HMOP No.3572 of 2015, invoking Section 9 of the Hindu Marriage Act, before the I Additional Family Court at Chennai. The petitioner has already filed a petition for divorce in HMOP.No.333 of 2015 before the Sub-Court at Poonamallee. The petitioner now seeks transfer of the proceedings in HMOP No.3572 of 2015 from the file of I Additional Family Court, Chennai to the file of Sub-Court, Poonamallee for disposal.

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

3. There are two proceedings now pending before two different Courts. The proceedings in HMOP No.3572 of 2015 filed by the respondent for restitution of conjugal rights, is pending before the I Additional Family Court at Chennai. The other proceedings in HMOP No.333 of 2015 filed by the petitioner for

divorce is pending before the Sub-Court at Poonamallee. In case, two proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

4. 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.

5. The petitioner has produced sufficient materials justifying transfer. I am therefore of the view that the transfer petition deserves to be allowed.

6. The proceedings in H.M.O.P.No.3572 of 2015 is withdrawn from the file of I Additional Family Court, Chennai and is transferred to the file of Sub-Court, Poonamallee for disposal along with H.M.O.P.No.333 of 2015.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Sub-Court, Poonamallee
- 2.The I Additional Family Court, Chennai

+1cc to Mr.R. Sampathkumar, Advocate, S.R.No.59793

pvs (CO)

md (15/11/2016)

Transfer CMP No.913 of 2015