

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.586 OF 2016
AND CMP NO.16098 OF 2016

R.Karthikeyan

... Petitioner

versus

Thilagavathi

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the petition in G.W.O.P.No.23 of 2016 on the file of Family Court, Trichy and transfer the same to the file of District Court, Coimbatore to try along with G.W.O.P.No.238 of 2016 pending before District Court, Coimbatore.

For Petitioner : Mr.Palani Selvaraj
For Respondent : Mr.S.Giritharan

ORDER

The petitioner initiated proceedings in G.W.O.P.No.238 of 2016, before the District Court, Coimbatore, claiming custody of the minor

child.

2. The respondent, on the other hand, instituted a proceedings in G.W.O.P.No.23 of 2016, before the Family Court, Trichy, praying for an order to appoint her as the Guardian of the minor child.

3. The petitioner has come up with this petition seeking an order for transfer of the proceedings in G.W.O.P.No.23 of 2016 from the file of Family Court, Trichy, to the file of District Court, Coimbatore, for disposal along with G.W.O.P.No.238 of 2016.

4. The learned counsel for the petitioner contended that it was only after instituting the proceedings in G.W.O.P.No.238 of 2016, the respondent initiated the proceedings in G.W.O.P.No.23 of 2016 and as such, the subsequent proceedings should be transferred to the Court at Coimbatore.

5. The learned counsel for the respondent by placing reliance on Section 9 of the Guardian and Wards Act, 1890 contended that only the Court at Trichy has got jurisdiction in view of the residence of the minor child.

6. There are two proceedings now pending between the parties. The petitioner filed G.W.O.P.No.238 of 2016 before the District Court, Coimbatore. The respondent filed G.W.O.P.No.23 of 2016 before the Family Court, Trichy. Section 9 of the Guardian and Wards Act, 1890 deals with the jurisdiction of the Court to entertain the application.

7. The minor child is admittedly residing at Trichy. The learned counsel for the respondent is therefore perfectly correct in his contention that the Court at Trichy alone has got jurisdiction to entertain the application under the Guardian and Wards Act, 1890. I am therefore of the view that the proceedings in G.W.O.P.No.238 of 2016 pending before the District Court at Coimbatore, deserves to be transferred to the file of Family Court at Trichy.

8. The proceedings in G.W.O.P.No.238 of 2016 is withdrawn from the file of District Court, Coimbatore, and is transferred to the file of Family Court, Trichy, for disposal along with G.W.O.P.No.23 of 2016.

9. The learned Judge, Family Court, Trichy is directed to

dispose of both the proceedings, on merits and as per law, as expeditiously as possible and preferably within a period of six months from the date of receipt of a copy of this order.

10. The Transfer Civil Miscellaneous Petition is disposed of with the above direction. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

17.11.2016

Index : Yes/No
Internet : Yes/No
TK

To

1.The District Court
Coimbatore.

2.The Family Court
Trichy.

K.K.SASIDHARAN, J.

TK

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