

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.533 OF 2012

AND MP NO.1 OF 2012

V.Nithya @ Shobana

... Petitioner

Versus

R.Parthasarathy

... Respondent

PRAYER: Petition filed under section 24 of the Code of Civil Procedure to withdraw and transfer the HMOP No.557 of 2010 filed by the respondent herein from the file of the Subordinate Judge, Trichy to the Court of the First Additional Family Court, Chennai.

For Petitioner : Mr.C.Regu Rajan

O R D E R

The respondent in HMOP No.557 of 2010 on the file of the learned Subordinate Judge, Trichirapalli is the petitioner in this Transfer Civil Miscellaneous Petition.

2. None appears on behalf of the petitioner. There is no appearance on behalf of the respondent also in spite of printing his name in the cause list after service.

3. The respondent initiated proceedings in HMOP No.577 of 2010 before the Subordinate Judge, Trichirapalli, praying for a decree of divorce.

4. The petitioner, on the other hand, filed O.P.No.1588 of 2011 before the First Additional Family Court, Chennai, praying for a decree under Section 9 of the Hindu Marriage Act, 1955. Both the proceedings are now pending before the respective Courts.

5. The petitioner is a resident of Chennai. According to the petitioner, it would not be possible for her to travel all along from Chennai to Trichirapalli for the purpose of defending the proceedings in HMOP No.577 of 2010.

6. Section 19(iii-a) of the Hindu Marriage Act, 1955, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of

7. There are two proceedings now pending before two different Courts. In case, these two proceedings are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter. I am therefore of the view that the Transfer Civil Miscellaneous Petition deserves to be allowed.

8. The proceedings in HMOP No.577 of 2010 is withdrawn from the file of the Subordinate Judge, Trichirapalli and is transferred to the file of First Additional Family Court, Chennai, for disposal along with O.P.No.1588 of 2011.

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

TK

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1.The Subordinate Court
Trichirapalli.

2.The First Additional Family Court
Chennai.

TR CMP NO.533 OF 2012

CNR

MSI 08/11/2016

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