

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.13 of 2016
and
CMP.No.227of 2016

T.S.Malathi

...Petitioner

versus

B.Shivaranjan

...Respondent

PRAYER:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.388 of 2015, from the file of the Subordinate Court, Tambaram, Chennai, and transfer the same to the file of the Principal Judge, Family Court, Chennai, to be tried along with F.C.O.P.No.3746 of 2015.

For Petitioner : R. Shyamala

For Respondent : Mr.V.S.Sivasundaram

O R D E R

The respondent initiated proceedings in H.M.O.P.No.388 of 2015, before the Subordinate Court, Tambaram, praying for a decree of divorce. The petitioner, on the other hand, filed F.C.O.P.No.3746 of 2015 before the Principal Judge, Family Court, Chennai, praying for a decree under Section 9 of the Hindu Marriage Act, 1955. The petitioner has come up with this Transfer Petition for transfer of the proceedings in H.M.O.P.No.388 of 2015, to the Family Court, Chennai, for disposal along with F.C.O.P.No.3746 of 2015.

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

3. There are two proceedings now pending before two different Courts. In case, these proceedings are taken up by 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 is a resident of Mylapore, Chennai. The petitioner is working in an I.T. Company at Chennai. The respondent is also a resident of Chennai. I am therefore, of the view that, it would be in the interest of both the parties for disposal of the matter by a particular Court, instead of taking up the proceedings by two different Courts.

6. The proceedings in H.M.O.P.No.388 of 2015, is withdrawn from the file of the Subordinate Court, Tambaram, Chennai, and is transferred to the file of the Principal Judge, Family Court, Chennai, for disposal along with F.C.O.P.No.3746 of 2015.

7. The respondent is at liberty to file appropriate Application before the Family Court, Chennai, to dispense with his personal appearance on the normal dates of hearing, subject to the condition that he would appear on all the effective dates of hearing and would cooperate for an early disposal of the case. In case, any such Application is filed, the same shall be considered and disposed of by the learned Principal Judge, Family Court, taking into account the difficulties projected by the respondent on account of his employment in an I.T. Company.

8. The Transfer Civil Miscellaneous Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Subordinate Court,
Tambaram, Chennai.
2. The Principal Judge,
Family Court, Chennai.

+1cc to Mr.V.S. Sivasundaram, Advocate, S.R.No.63222

+1cc to Mr.Dr.R. Gopinath, Advocate, S.R.No.63596

SSI(CO)
EU 09.12.16