

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

Transfer CMP.No.143 of 2016

G.Malini

...Petitioner

vs.

S.Ganesh Kumar

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw the HMOP No.522 of 2015 from the file of Subordinate Judge, Tambaram and transfer the same to the file of Subordinate Judge, Madurai.

For Petitioner : Mr.N.Poovalingam
For Respondent : Mr.T.Thiyagarajan

O R D E R

The respondent in HMOP No.522 of 2015 on the file of Sub-Court, Tambaram is the petitioner in this transfer petition.

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

3. The respondent instituted proceedings in HMOP No.522 of 2015 against the petitioner before the Sub-Court at Tambaram, praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner has come up with this transfer petition on the ground that being a resident of Madurai, it would be practically impossible for her to come over to Tambaram for the purpose of defending the proceedings in HMOP No.522 of 2015.

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 given her own reasons to demonstrate that it would be very difficult for her to appear before the Court at Tamabaram along with her minor child. There is nothing on record to suspect the bonafides in filling this transfer petition.

6. I am therefore of the view that the transfer petition deserves to be allowed.

7. The proceedings in H.M.O.P.No.522 of 2015 is withdrawn from the file of the Sub-Court, Tambaram, and is transferred to the file of the Sub-Court, Madurai, for disposal on merits.

8. The learned counsel for the respondent submitted that the respondent is an employee at Chennai and as such, it would be difficult for him to appear on all the dates of hearing before the Sub-Court, Madurai.

9. It is open to the respondent to file appropriate application before the Trial Court 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. In case, any such application is filed, the same shall be considered by the learned Trial Judge taking into account the employment of the respondent at Chennai.

10. The Transfer Civil Miscellaneous Petition is allowed as indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(svki)

To

- 1.The Subordinate Judge, Tambaram
- 2.The Subordinate Judge, Madurai

+1 CC to Mr. T. Thiyagarajan, Sr.No.55670

+1 CC to Mr. N. Poovanalingam, Advocate Sr.No.55962

Transfer CMP.No.143 of 2016

SR (CO)

MD : 24/10/2016