

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Transfer CMP Nos.157, 158 and 454 of 2016 and
CMP Nos.4402 and 4403 of 2016 & 12200 of 2016

Aswini @ M.Sujatha ...Petitioner in
Tr.CMP.Nos.157 and 158/2016 and
respondent in Tr.Cmp.No.454/2016

versus
V.Kannabiran ...Respondent in
Tr.CMP.Nos.157 and 158/2016 and
Petitioner in Tr.Cmp.No.454/2016

(Cause title amended vide order dated 23.09.2016 by KKSJ in
CMP.No.15316/2016 in Tr.CMP.No.454/2016)

PRAYER in Tr.CMP.No.157/2016: Tr.C.M.P. filed under section 24 of
C.P.C., to withdraw G.O.P.No.172 of 2015 on the file of the Principal
District Judge, Villupuram and to transfer the same to the Family
Court, Vellore or to the Principal District Court, Vellore.

PRAYER in Tr.CMP.No.158/2016: Tr.C.M.P. filed under section 24 of
C.P.C., to withdraw HMOP No.32 of 2015 on the file of Sub-Court,
Kallakurichi and to transfer the same to the Family Court, Vellore or
to the Sub-Court, Gudiyatham for joint trial along with HMOP No.59 of
2015.

PRAYER in Tr.CMP.No.454/2016: Tr.C.M.P. filed under section 24 of
C.P.C., to withdraw HMOP No.59 of 2015 on the file of Sub-Court,
Gudiyatham and to transfer the same to the file of Sub-Court,
Kallakurichi for joint trial along with HMOP No.32 of 2015.

For Petitioner : Mr.N.Manokaran
Tr.CMP.No.157 & 158/2016 & respondent in Tr.CMP.No454/2016

For Respondent : Mr.D.Ravichander
Tr.CMP.No.157 & 158/2016 & respondent in Tr.CMP.No.454/2016

C O M M O N O R D E R

The Transfer Petitions in Tr.CMP.Nos.157 and 158 of 2016 are at
the instance of the wife and the prayer is to withdraw the
proceedings from Principal District Court, Villupuram
(Tr.CMP.No.157/2016) and Sub-Court, Kallakurichi (Tr.CMP.No.158/2016)
and transfer the same to Family Court at Vellore.

2. The Transfer Petition in Tr.CMP.No.454 of 2016 is at the instance of the husband and the prayer is to transfer the proceedings from Sub-Court, Gudiyatham to Sub-Court, Kallakurichi.

3. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent in the respective transfer petitions.

4. The husband filed G.O.P.No.172 of 2015 before the Principal District and Sessions Court, Villupuram, praying for custody of the minor son. The respondent filed another proceedings in HMOP No.32 of 2015 before the Sub-Court, Kallakurichi, praying for a decree of divorce. The wife on the other hand filed a petition under Section 9 of the Hindu Marriage Act before the Sub-Court, Gudiyatham in HMOP No.59 of 2015.

5. The wife has come up with the transfer petitions on the ground that being a permanent resident of Gudiyatham, it would not be possible for her to appear before the Court at Kallakurichi. The husband on the other hand filed transfer petition in Tr.CMP.No.454 of 2016 on the ground that HMOP No.59 of 2015 requires to be transferred to Sub-Court, Kallakurichi for disposal along with other proceedings.

6. The husband is stated to be a Pharmacist and a Government employee. The wife on the other hand is unemployed. According to the wife, who is the petitioner in Tr.CMP.Nos.157 and 158 of 2016, it would not be possible for her to travel from Gudiyatham to Kallakurichi for the purpose of defending the proceedings before the Sub-Court at Kallakurichi.

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7. There are three proceedings now pending before the respective courts. It would be in the interest of both the parties to transfer all these matters to a particular court for disposal on merits.

8. Even otherwise, 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.

9. The petitioner in Tr.CMP.Nos.157 and 158 of 2016 has produced sufficient materials to demonstrate that it would not be possible for her to defend the proceedings in case, the same is allowed to be continued before the Court at Kallakurichi. I am therefore of the view that the transfer petitions filed by the wife deserves to be allowed.

10. In the result, the proceedings in D.O.P.No.172 of 2015 and HMOP No.32 of 2015 are transferred from the file of Principal District and Sessions Court, Villupuram and Sub-Court, Kallakurichi to the file of Family Court, Vellore. The proceedings in HMOP.No.59 of 2015 is also withdrawn from the file of Sub-Court, Gudiyatham and is transferred to the file of Family Court, Vellore.

11. The learned Trial Judge, Vellore is directed to dispose of

all the matters as expeditiously as possible.

12. The Transfer Civil Miscellaneous Petitions are disposed of as as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

svki

To
1.The Principal District and Sessions Judge, Villupuram
2.The Sub-Judge, Kallakurichi
3.The Judge, Family Court, Vellore.
4.The Sub-Judge, Gudiyatham

+2 CC to M/s.N.Manokaran, Advocate vide SR.No.56042, 56046

+1 CC to M/s.D.Ravichander, Advocate Vide SR.No.56286

CO-CNR
ths : 19.10.2016

Transfer CMP Nos.157, 158 and
454 of 2016

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