

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K. SASIDHARAN

Transfer C.M.P.No.165 of 2016

and C.M.P.No.4711 of 2016

Sangeetha .. Petitioner/Respondent

Vs.

1.S.Kumar

2.Chenthamizh Selvi .. Respondents/Petitioners

Prayer: Tr.C.M.P. filed under section 24 of C.P.C., to order withdrawal of F.C.O.P.No.526 of 2014 from the file of the Hon'ble Family Court, Salem and transfer the same to the Sub Court, Perambalur.

For Petitioner : Mr.G.Padmanapan
For Respondent : Mr.J.Sudhakaran

ORDER

The first respondent filed proceedings in F.C.O.P.No.526 of 2014 before the Family Court, Salem, praying for a decree of divorce. The petitioner on the other hand filed a case in H.M.O.P.No.142 of 2015 before the Sub Court, Perambalur for restitution of conjugal rights. The petitioner also filed a maintenance case in M.C.No.21 of 2015 before the Chief Judicial Magistrate, Perambalur, claiming maintenance. The proceedings are pending before the respective Courts. The petitioner has come up with this transfer petition with a grievance that being the resident of Kalarampatti, Perambalur District, it would not be possible for her to appear before the Court at Salem for the purpose of defending the case in F.C.O.P.No.526 of 2014.

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

3. There is no doubt that the petitioner is a resident of Perambalur District. The first respondent on the other hand is a

resident of Salem. It was only the first respondent who initiated the proceeding at the first instance for divorce. The matter is now pending before the Family Court at Salem.

4. According to the petitioner, there is nobody to take care of her and as such, it is very difficult to travel all along from Perambalur District to Salem for the purpose of defending the proceeding initiated by the first respondent.

5. 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.

6. There is nothing on record to disbelieve the case pleaded by the petitioner. I am therefore of the view that this is a fit case to transfer the proceedings from Salem to Perambalur.

7. In the result, the proceedings in F.C.O.P.No.526 of 2014 is withdrawn from the file of Family Court, Salem and is transferred to the file of Sub Court, Perambalur to be tried along with H.M.O.P.No.142 of 2015. The petitioner shall co-operate for an early disposal of the matter in view of the fact that the first respondent is a deaf and dumb person.

8. The Transfer CMP is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Family Court,
Salem.

2. The Sub Court,
Perambalur.

+1cc to Mr. J. Sudhakaran, Advocate, S.R.No.56983

ssi (CO)
md (8/11/2016)

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