

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

Tr.C.M.P.No.181 of 2016
and C.M.P.No.5152 of 2016

Jiveetha

... Petitioner

Vs

A.Thiyagarajan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw and transfer H.M.O.P.No.139 of 2014 on the file of the Principal Subordinate Judge, Tindivanam to the file of the Principal Subordinate Judge of Chengalpattu.

For Petitioner : Mr.V.Nicholas

For Respondent : Mr.S.Parthasarathy for R1

ORDER

Heard Mr.V.Nicholas, learned counsel for the petitioner and Mr.S.Parthasarathy, learned counsel for the first respondent.

2. The petitioner is the wife of the respondent. The respondent herein/husband filed H.M.O.P.No.139 of 2014 on the file of the Principal Subordinate Judge, Tindivanam for divorce. The petitioner herein, who is the respondent in the H.M.O.P, entered appearance, participated in the trial and the trial is in the midway. In fact, the evidence on the side of the petitioner in the H.M.O.P was over and at the time when the respondent in the H.M.O.P, who is the petitioner in this Transfer Civil Miscellaneous Petition, was called upon to lead evidence, she chose to file the present Transfer Civil Miscellaneous Petition to transfer the above said H.M.O.P from the file of Principal Subordinate Judge, Tindivanam to the file of Principal Subordinate Judge, Chengalpattu.

3. Though the parties are Hindus, they are governed by the Hindu Marriage Act, 1955 and Divorce Original Petition has also been filed under the provisions of the Hindu Marriage Act, 1955 which provides a provision beneficial to the wife to choose the place of suing in the form of Section 19(iii-a) of the Hindu Marriage Act, 1955 such a benevolent provision, which is to be given a liberal interpretation, cannot be permitted to be misused. The very fact that after the completion of the evidence on the side of the petitioner in the H.M.O.P

and when the respondent therein was called upon to lead evidence, the respondent therein has come forward with the present Transfer Civil Miscellaneous Petition, will show lack of bonafide and allowing such petition will encourage abuse of the said benevolent provision. Moreover, the distance between Dindivanam and Chengalpattu can be covered at the maximum of one hour even if she travels by a public transport system. In view of the same, this Court comes to the conclusion that the Transfer Civil Miscellaneous Petition deserves to be dismissed.

Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

28.04.2016

Index : Yes/No
Internet : Yes/No
gpa

To

1. The Principal Subordinate Judge
Tindivanam
2. The Principal Subordinate Judge
Chengalpattu

P.R.SHIVAKUMAR, J.

gpa

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