

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.265 of 2016
and
CMP.No.7275 of 2016

V.K.Kavitha ... Petitioner/Respondent

Versus

J.Arun ... Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer the HMOP.No.29 of 2014 from the Subordinate Judge at Arani to the Subordinate Judge Court at Poonamallee.

For Petitioner : Mr.R.Anand Kumar

For Respondent : No appearance

O R D E R

The respondent initiated a proceeding in HMOP.No.29/2014 before the Subordinate Judge at Arani praying for decree of divorce.

2. The petitioner filed HMOP.No.474/2015 before the Subordinate Court at Poonamallee invoking Section 9 of the Hindu Marriage Act, 1955.

3. The petitioner is before this Court praying for an order of transfer.

4. Heard the learned Counsel for the petitioner. None appears on behalf of the respondent in spite of printing his name in the Cause List after service.

5. The petitioner is the respondent in HMOP.No.29/2014 on the file of the Subordinate Judge at Arani. According to the petitioner, it is not possible for her to defend HMOP.No.29/2014 in case the same is continued before the Subordinate Judge at Arani. Moreover, the matrimonial proceedings initiated by the petitioner in HMOP.No.474/2015 is pending on the file of learned Subordinate Court, Poonamallee. There is nothing on record to disbelieve the version given by the petitioner.

6. 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.

7. There are two proceedings now pending before two different Courts. In case, two proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter. I am therefore of the view that the petitioner has made out a case for transfer.

8. The proceedings in HMOP.No.29 of 2014 is withdrawn from the file of Subordinate Court, Arani and is transferred to the file of Subordinate Court, Poonamallee for disposal along with HMOP No.474 of 2015.

9. The Transfer Civil Miscellaneous Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Arani.

2.The Subordinate Judge,
Poonamallee.

+1cc to Mr.R.Anand Kumar, Advocate, S.R.No.67678

Transfer CMP No.265 of 2016

GJ(CO)
CA(30/12/2016)