

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

Transfer CMP.No.269 of 2016 and

C.M.P.No.7425 of 2016

K.Ramya

...Petitioner

vs.

R.Prakash

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw FCOP No.99 of 2016 pending on the file of Family Court, Salem and transfer the same to the file of Subordinate Court at Tambaram, Chennai to be tried along with HMOP No.658 of 2014 pending before the Subordinate Court, Tambaram.

For Petitioner : Mr.L.N.Praghasam

For Respondent : Mr.P.Jagadeesan

O R D E R

The petitioner filed HMOP No.658 of 2014 before the Sub-Court, Tambaram against the respondent praying for a decree of divorce. The respondent, on the other hand initiated proceedings in FCOP No.99 of 2016 before the Family Court, Salem, praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner now seeks transfer of the proceedings from Salem to Tambaram.

2. The learned counsel for the petitioner contended that it was only two years after initiating the proceedings for divorce, the respondent filed proceedings under Section 9 of the Hindu Marriage Act before the Family Court at Salem.

3. The learned counsel for the respondent submitted that the respondent is an employee at New Delhi and as such, it would be difficult for him to appear before the Court at Tambaram.

4. There are two proceedings pending before two different courts. The earliest proceeding initiated by the petitioner is pending before the Sub-Court at Tambaram. It was only thereafter, the respondent initiated proceedings in FCOP No.99 of 2016 before the Family Court at Salem. The respondent is stated to be an employee working at New Delhi. It would not be difficult for him to appear before the Court at Tambaram. In case, the matter is taken up before the Court at Salem, even the

respondent would be put to difficulty as he has to travel all along from New Delhi to Salem.

5. There are two proceedings pending before two different Courts. It would be in the interest of both the parties to have these matters posted before a particular Court for disposal.

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. The petitioner has produced sufficient materials for withdrawal of the case from the Court at Salem. I am therefore of the view that the transfer petition deserves to be allowed.

8. In the result, the proceedings in F.C.O.P.No.99 of 2016 is withdrawn from the file of Family Court, Salem , and is transferred to the file of Sub-Court, Tambaram, for disposal along with HMOP No.658 of 2014.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Family Court, Salem
- 2.The Subordinate-Court, Tambaram

+1 cc to M/s.V.Thillaikkarasi Advocate sr 55305

+1 cc to M/s.P.Jagadeesan Advocate sr 55267

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