

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.757 of 2013 and

MP.No.1 of 2013

Sarasu @ Saraswathi ...Petitioner

versus

D.Prakash ...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw the case in FCOP No.148 of 2013 pending on the file of Family Court at Salem, Salem District and transfer the same to the Court of the Subordinate Judge at Attur for joint trial along with the case in HMOP No.105 of 2013.

(Prayer amended vide order dated 24.01.2014 in MP.No.1 of 2014 in Tr.Cmp.No.757/2013)

For Petitioner : Mr.R.Asaithambi

For Respondent : Mr.T.M.Hariharan

O R D E R

The respondent initiated proceedings in FCOP No.148 of 2013 before the Family Court at Salem, praying for a decree of divorce. The petitioner, on the other hand filed HMOP No.105 of 2013 before the Sub-Court at Attur, praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner is before this Court with a request to transfer the matrimonial proceedings initiated by the respondent to the Sub-Court at Attur for disposal along with HMOP No.105 of 2013.

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

3. The petition filed by the petitioner in HMOP.No105 of 2013 has already been disposed of, by the Trial Court by granting the prayer. In the said matter, the respondent was set ex parte and thereafter, the learned Trial Judge allowed the

original petition.

4. Since the Court at Attur is only a Sub-Court, there is no need for the personal appearance of the respondent on all the dates of hearing.

5. The divorce petition filed by the respondent is now pending before the Family Court at Salem. The petitioner is a resident of Attur. According to the petitioner, it would not be possible for her to appear before the Family Court at Salem regularly for the purpose of defending the proceedings in FCOP No.148 of 2013.

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 justifying her request for transfer. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in F.C.O.P.No.148 of 2013 is withdrawn from the file of Family Court, Salem and is transferred to the file of Subordinate Court, Attur, for disposal along with H.M.O.P.No.105 of 2013.

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

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

1.The Judge, Family Court, Salem

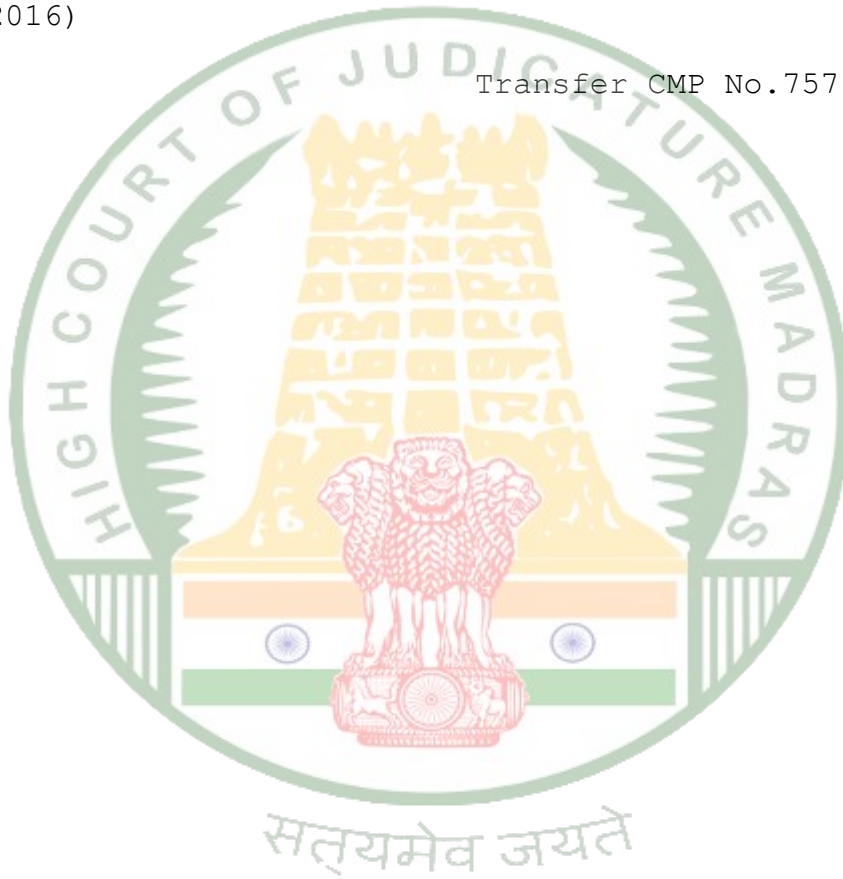
2.The Subordinate Judge,Attur

+lcc to Mr.T.M. Hariharan, Advocate, S.R.No.71378

ev(CO)

md(29/12/2016)

Transfer CMP No.757 of 2013



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