

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.287 of 2016
and
CMP.No.7842 of 2016

S.Padmasree ... Petitioner
versus

D.Selvakumar ... Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw the petition filed by the respondent in O.P.No.105 of 2016 on the file of the Principal Family Court, Chennai and transfer the case to Sub-Judge, Tiruppur.

For Petitioner : Mr.P.Ezhil Nilavan

For Respondent : Mr.M.Vijayakumar

O R D E R

The petitioner has filed this transfer petition with a prayer to withdraw the proceedings from the file of Principal Family Court, Chennai and transfer the same to the file of Sub-Court, Tiruppur.

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

3. The respondent initiated proceedings in O.P.No.105 of 2016 before the Principal Family Court, Chennai, praying for a decree of divorce. The petitioner on receipt of summons filed this petition for transfer.

4. The petitioner is stated to be a resident of Tiruppur. According to the petitioner, it would not be possible for her to appear before the Court at Chennai, as there is nobody to accompany her.

5. It is the case of the respondent that his mother is a cancer patient and as such, it would be difficult for him to appear before the Court at Tiruppur.

6. The petitioner is the wife and she is facing divorce proceedings on the file of Principal Family Court, Chennai.

According to the petitioner, it would not be possible for her to appear before the Court at Chennai for the purpose of defending the proceedings in O.P.No.105 of 2016.

7. The request is to transfer the matter to Sub-Court at Tiruppur. In case, the Original Petition is transferred to Sub-Court, Tiruppur, there is no need for the respondent to appear on all the dates of hearing. It would suffice, if he appears on the effective dates of hearing.

8. 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.

9. The petitioner has produced sufficient materials justifying the transfer of the proceedings. I am therefore of the view that the transfer petition deserves to be allowed.

10. In the result, the proceedings in O.P.No.105 of 2016 is withdrawn from the file of Principal Family Court, Chennai and is transferred to the file of Sub-Court, Tiruppur.

11. It is open to the respondent to file appropriate application before the Trial Court to dispense with his personal appearance on the normal dates of hearing subject to the condition that he would appear on all the effective dates of hearing.

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

Sd/-

Assistant Registrar(J)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

svki
To

1.The Principal Family Court,
Chennai.

2.The Sub-Court,
Tiruppur.

+2cc's to Mr.R.SatyaBama, Advocate, S.R.Nos.55822 & 54891
+1cc to Mr.P.Ezhil Nilavan, Advocate, S.R.No.55011

Transfer C.M.P.No.287 of 2016

SR(CO)

CA(01/11/2016)