

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.291 OF 2016

AND CMP NO.8021 OF 2016

K.Mageshwari ... Petitioner

versus

K.Paramaswaran ... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw H.M.O.P.No.65 of 2015 on the file of the Sub Court, Dharapuram and to transfer the same to the Family Court at Coimbatore.

For Petitioner : Mr.J.Stalin

For Respondent : Mr.S.Selvathirumurugan

O R D E R

The respondent initiated proceedings in H.M.O.P.No.65 of 2015, before the Sub Court, Dharapuram, against the petitioner, praying for a decree of divorce.

2. The petitioner, on the other hand, initiated a proceedings in H.M.O.P.No.57 of 2016 before the Sub Court, Coimbatore, invoking Section 9 of the Hindu Marriage Act, 1955.

3. The petitioner is before this Court with a request to transfer the matrimonial proceedings from Dharapuram to Coimbatore.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The transfer petition is opposed by the respondent on the ground that the Trial Court commenced the examination of witnesses on 03 March 2016 itself. According to the respondent, the matter is pending trial and as such, there is no need for transfer.

6. The petitioner is a resident of Coimbatore. The matrimonial proceedings initiated by the respondent is pending before the Sub Court at Dharapuram. The petitioner has already filed a matrimonial proceedings in H.M.O.P.No.57 of 2016, which was subsequently dismissed for default.

7. The learned counsel for the petitioner submitted that the petitioner has filed an application to restore the proceedings in H.M.O.P.No.57 of 2016.

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 in her affidavit filed in support of this transfer petition explained her difficulties in appearing before the Sub Court at Dharapuram. In view of those reasons, I am of the view that the transfer petition deserves to be allowed.

10. The proceedings in H.M.O.P.No.65 of 2015 is withdrawn from the file of Sub Court, Dharapuram, and is transferred to the file of Sub Court at Coimbatore, for disposal on merits.

11. The learned Trial Judge is directed to dispose of the interlocutory application filed by the petitioner to restore the matrimonial proceedings in H.M.O.P.No.57 of 2016, as expeditiously as possible. Thereafter, the said matter shall be posted along with H.M.O.P.No.65 of 2015. There shall be a further direction to the learned Trial Judge to dispose of the matrimonial proceedings, as expeditiously as possible.

12. The Transfer Civil Miscellaneous Petition is allowed with the above observation. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

TK

To

1.The Subordinate Judge
Dharapuram.

2.The Subordinate Judge
Coimbatore.

1 cc to M/s. J. Stalin, Advocate, Sr. 66318

1 cc to M/s. Selvathirumurugan, Advocate, Sr. , 66209

TR CMP NO.291 OF 2016

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