

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.302 of 2016 and

CMP.No.8342 of 2016

D.Divya

...Petitioner

versus

M.K.Dhamothara Kannan

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw and transfer the case pending on the file of Sub-Court, Theni in HMOP No.35 of 2016 to the Sub-Court, Thiruchengode.

For Petitioner : Mr.S.Benazir
For Respondent : No appearance

O R D E R

The respondent initiated proceedings in HMOP No.35 of 2016 before the Sub-Court at Theni, praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner, on the other hand initiated proceedings in HMOP No.168 of 2015 before the Sub-Court, Tiruchengode, praying for a decree of divorce. The petitioner is now before this Court with a request to transfer the proceedings in HMOP No.35 of 2016.

2. 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.

3. There are two proceedings now before two different Courts. The proceedings initiated by the petitioner for divorce is pending before the Sub-Court at Tiruchengode. The proceedings initiated by the respondent for Restitution of Conjugal rights is pending before the Sub-Court at Theni. 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.

4. 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.

5. There is nothing on record to suspect the bonafides in filing this transfer petition. I am therefore of the view that the petitioner has made out a case for transfer.

6. The proceedings in H.M.O.P.No.35 of 2016 is withdrawn from the file of Sub-Court, Theni and is transferred to the file of Sub-Court, Thiruchengode, for disposal along with HMOP No.168 of 2015.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

svki

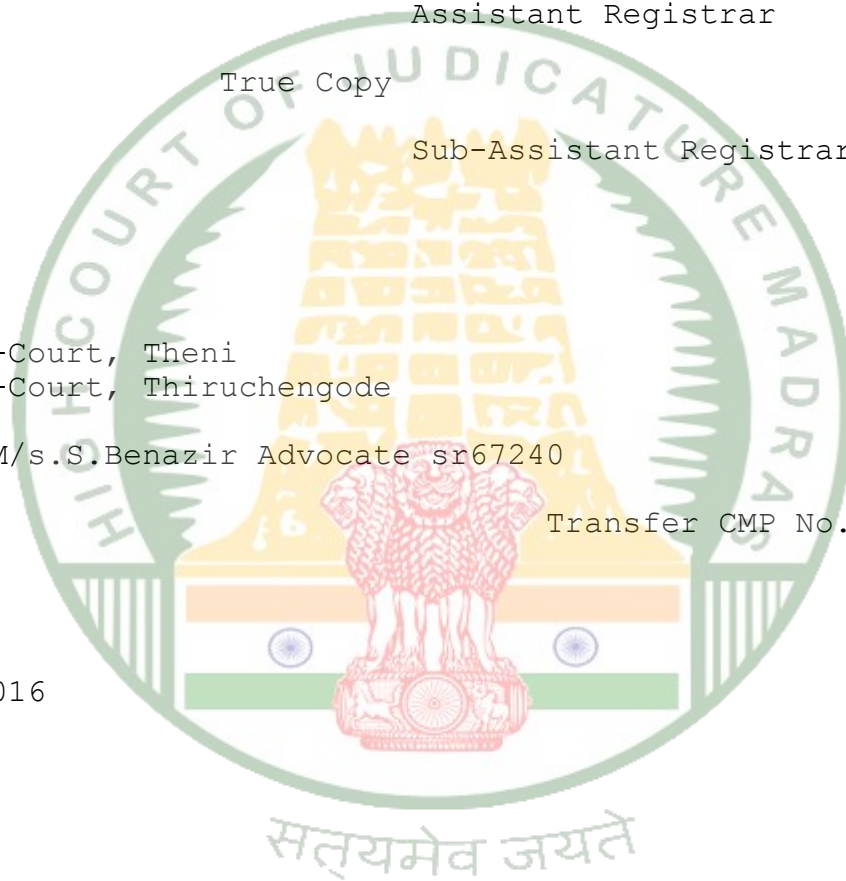
To

- 1.The Sub-Court, Theni
- 2.The Sub-Court, Thiruchengode

+1 cc to M/s.S.Benazir Advocate sr67240

Transfer CMP No.302 of 2016

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