

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.364 OF 2016
AND CMP NO.9701 OF 2016

M.Porselvi

... Petitioner

Versus

A.Duraimurugan @ Durai

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw H.M.O.P.No.216 of 2015 pending on the file of the Sub Court, Ponneri, Tiruvallur District and transfer the same to be tried along with H.M.O.P.No.513 of 2015 pending on the file of the Sub Court, Tambaram, Kancheepuram District.

For Petitioner : Mr.Veangai I. Prakash Raj

For Respondent : Mr.J.B.Solomen Peter Kamaldoss

O R D E R

The respondent instituted a proceedings in O.P.No.216 of 2015, before the Sub Court, Ponneri, against the petitioner, praying for a decree of divorce.

2. The petitioner, on the other hand, filed a petition in H.M.O.P.No.513 of 2015, before the Sub Court, Tambaram, invoking Section 9 of the Hindu Marriage Act, 1955.

3. The petitioner has come up with this transfer petition to withdraw the proceedings in O.P.No.216 of 2015, pending on the file of Sub Court, Ponneri and to transfer the same to the file of Sub Court, Tambaram, so as to enable the Sub Court, Tambaram, to dispose of both the matters together.

4. Heard the learned counsel for the petitioner. None appears on behalf of the respondent.

5. There are two proceedings now pending before two different Courts. The proceedings in O.P.No.216 of 2015 is pending before the Sub Court, Ponneri. The connected proceedings in H.M.O.P.No.513 of 2015 is pending before the Sub Court, Tambaram. In case, these two proceedings are allowed to be prosecuted in two different courts, there is a

possibility of passing contradictory orders in the very same subject matter.

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 indicating her difficulties to appear before the Sub Court at Ponneri. Moreover, the petitioner has taken up a contention that the respondent is also a resident of Tambaram and as such, there is no difficulty for him to appear before the Sub Court at Tambaram. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings O.P.No.216 of 2015 is withdrawn from the file of Sub Court, Ponneri, and is transferred to the file of Sub Court, Tambaram, for disposal along with H.M.O.P.No.513 of 2015.

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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

TK

To

1.The Sub Court
Ponneri, Thiruvallur District.

2.The Sub Court
Tambaram.

+ 2 ccs to Mr.Veangai I. Prakash Raj, Advocate Sr.62788

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