

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

Transfer C.M.P.No.421 of 2016

And

C.M.P.No.11144 of 2016

Dhanalakshmi ... Petitioner/Respondent

Versus

Santhoshkumar ... Respondent/Petitioner

This Petition filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No. 61 of 2016 on the file of Sub Court, Namakkal and transfer the same to the file of Special Judge Family Court, Salem and direct to try along with Fcop No.145 2016 pending on the file of special judge, family court at salem by allowing their transfer petition.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondent : Mr.C.Prakasam

O R D E R

The petitioner has come up with this Transfer Civil Miscellaneous Petition for withdrawal of the proceedings in H.M.O.P.No. 61 of 2016 from the file of Sub Court, Namakkal and transfer the same to the file of Special Judge, Family Court, Salem.

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

3. The respondent initiated proceedings in H.M.O.P.No. 61 of 2016 praying for a decree of divorce. The petitioner, on the other hand, instituted the proceedings in F.C.O.P.No. 145 of 2016 before the Family Court at Salem praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner now seeks

transfer of the pending proceedings from the file of Sub Court, Namakkal to the file of Family Court at Salem.

4. The learned counsel for the respondent vehemently opposed the prayer for transfer. According to him, the distance between Namakkal and Salem is only 55 kms and as such, the petitioner has not made out a case for transfer.

5. There are two proceedings pending between the parties. The proceedings in H.M.O.P.No. 61 of 2016 filed for a decree of divorce is pending on the file of Sub Court, Namakkal. The petition filed by the petitioner against the respondent in F.C.O.P.No. 145 of 2016 is pending before the Family Court, Salem. In case, the proceedings are allowed to be taken up by two different Courts, there is a chance of passing contradictory orders. I am therefore of the view that transfer petition deserves to be allowed.

6. In the result, the proceedings in H.M.O.P.No. 61 of 2016 is withdrawn from the file of Sub Court, Namakkal and is transferred to the file of the Family Court, Salem, for disposal on merits along with F.C.O.P.No. 145 of 2016.

7. The learned trial Judge is requested to dispose of the pending proceedings as expeditiously as possible.

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

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Court, Namakkal.
2. The Family Court, Salem.

+lcc to Mr.C.Prakasam, Advocate, S.R.No.54271

+lcc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.54252

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CO (ALA)
CP20/10/2016)



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