

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.423 OF 2016
AND CMP NO.11266 OF 2016

D.Jayalakshmi

... Petitioner

Versus

E.Loganathan

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw and transfer H.M.O.P.No.32 of 2016 pending before the Principal Sub Judge, Tindivanam to the Principal Family Court at Chennai to be and tried along with O.P.No.2267 of 2016.

For Petitioner : Mr.Sudharshana Sunder

For Respondent : No appearance

O R D E R

The respondent initiated a proceedings in H.M.O.P.No.32 of 2016, before the Principal Sub Court, Tindivanam, under Section 12(1)(c) of the Hindu Marriage Act, 1955.

2. The petitioner, on the other hand, filed an Original Petition in O.P.No.2267 of 2016 before the Principal Family Court, Chennai, praying for a decree of divorce.

3. The petitioner now seeks an order to transfer the proceedings in H.M.O.P.No.32 of 2016 to the file of Principal Family Court at Chennai for disposal along with O.P.No.2267 of 2016.

4. 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.

5. There are two proceedings now pending before two different Courts. The substantial proceedings filed by the petitioner in O.P.No.2267 of 2016 is pending before the Principal Family Court, Chennai. The proceedings in H.M.O.P.No.32 of 2016 is now pending before the Principal Sub

Court, Tindivanam. 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, 1955, 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 given sufficient reasons justifying her request for transfer. I am therefore of the view that the Transfer Civil Miscellaneous Petition deserves to be allowed.

8. The proceedings H.M.O.P.No.32 of 2016 is withdrawn from the file of Principal Sub Court, Tindivanam and is transferred to the file of Principal Family Court, Chennai, for disposal along with O.P.No.2267 of 2016.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

TK

To

1.The Principal Subordinate Judge,
Tindivanam.

2.The Principal Judge, Family Court
Chennai.

+ 1 cc to Mrs. Sudharshana Sunder, Advocate Sr.62971

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LRS (CO)
EU 16.12.16