

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.424 of 2016
and
CMP.No.11330 of 2016

J.Rekha

... Petitioner

versus

U.Mahesh

... Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw the petition filed by the respondent herein in HMOP No.221 of 2016 on the file of the Family Court, Tiruchirappalli to the III Additional Family Court, Chennai with a direction to try the same along with HMOP No.148 of 2015 filed by the petitioner pending in the III Additional Family Court, Chennai.

For Petitioner : Mr. G.Alagesan for
M/s.S.Arunachalam Associates

For Respondent : No appearance

ORDER

The petitioner filed a matrimonial proceeding in HMOP No.148 of 2015 before the III Additional Family Court at Chennai, praying for a decree of divorce. The respondent, on the other hand, filed a proceeding in HMOP No.221 of 2016 before the Family Court at Tiruchirappalli, praying for a decree under section 9 of the Hindu Marriage Act. The petitioner has come up with this petition for transfer.

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

3. There are two proceedings now pending before two different courts. The petition filed by the petitioner in HMOP No.148 of 2015 is pending before the Family Court at Chennai. The proceeding in HMOP No.221 of 2016 initiated by the respondent is pending on the file of Family Court at Tiruchirappalli. In case these two proceedings are allowed to be taken up by two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

5. 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.

6. The petitioner has given sufficient reasons, justifying her request for transfer of the proceedings. I am therefore of the view that the transfer petition deserves to be allowed.

7. In the result, the proceeding in HMOP No.221 of 2016 is withdrawn from the file of Family Court at Tiruchirappalli and is transferred to the file of III Additional Family Court at Chennai for disposal on merits, along with HMOP No.148 of 2015.

8. The Transfer CMP is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Judge,
Family Court,
Tiruchirappalli.

2. The Presiding Officer,
III Additional Family Court,
Chennai.

+1cc to M/s.S.Arunachalam Associates, Advocate, S.R.No.61816
+1cc to Mr.P.Babu, Advocate, S.R.No.61223

Transfer CMP No.424 of 2016

SCD(CO)
CA(24/11/2016)