

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2016

CORAM:

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

Transfer C.M.P.No.431 of 2016

And

C.M.P.No.11584 of 2016

Nithya Periyasamy ... Petitioner/Respondent

Versus

Anandan Duraisamy ... Respondent/Petitioner

This Petition filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No. 449 of 2014 on the file of Family Court, Coimbatore and transfer the same and tried along with H.M.O.P.No. 53 of 2014 to the file of Sub Court at Rasipuram.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.V.Ashok Kumar

O R D E R

The respondent in H.M.O.P.No. 449 of 2014 on the file of Family Court, Coimbatore, has come up with this Transfer Petition with a prayer to transfer the proceedings to the Sub Court, Rasipuram.

2. The petitioner is presently at UK. According to the petitioner, it would be difficult for her to appear before the Court at Coimbatore. It is the case of the petitioner that the petition in H.M.O.P.No. 53 of 2014 filed by her for restitution of conjugal rights is pending before the Sub Court, Rasipuram. The petitioner therefore wanted the proceedings in H.M.O.P.No. 449 of 2014 also should be transferred to the Court at Rasipuram.

3. The learned counsel for the respondent submitted that the evidence on the side of the respondent has already been completed and the matter is now kept pending for examination of the petitioner and her witnesses if any.

4. The attention of the learned counsel for the petitioner was cited with respect to the completion of evidence on the side of the respondent. The learned counsel thereafter took

instructions from the petitioner and submitted that the petitioner would appear before the Family Court at Coimbatore in case the matter is posted during the first week of December 2016. The learned counsel suggested 5th of December 2016 as the date for evidence of the petitioner. The learned counsel submitted that the evidence should be closed on the very same day by directing the respondent to cross examine the petitioner without taking adjournment.

5. The substantial prayer in the Transfer Petition is to transfer the proceedings to a Court at Rasipuram. The petitioner has now made it clear that she only wanted a convenient date to be fixed for her appearance before the trial Court and is not pressing the relief with regard to transfer. I am therefore of the view that appropriate orders should be passed taking into account the difficulties expressed by the petitioner.

6. The learned Judge Family Court, Coimbatore, is directed to post the petition in H.M.O.P.No. 449 of 2014 for recording evidence of the petitioner on 5th December 2016. The respondent shall complete cross examination of the petitioner on 5th December 2016.

7. The Transfer Civil Miscellaneous Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Judge, Family Court, Coimbatore.
2. The Sub Judge, Subordinate Court, Rasipuram.

+lcc to M/s. K. Myilsamy, Advocate, S.R.No.54514

+lcc to M/s. Vanathi Srinivasan, Advocate, S.R.No.54337

CNR(CO)

EU(03/11/2016)

Transfer C.M.P.No.431 of 2016

And

C.M.P.No.11584 of 2016