

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.434 of 2016 and

CMP.No.11695 of 2016

R.Nithya ...Petitioner/Respondent

versus

Boopathy ...Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to transfer the HMOP No.115 of 2016, pending on the file of the Principal Subordinate Court, Namakkal and transfer the same to the First Additional Family Court, Chennai for joint trial with the case in M.C.No.224 of 2016.

For Petitioner : Mr.V.R.Appaswamee
For Respondent : Mr.K.S.Karthic Raja

O R D E R

The respondent filed HMOP No.115 of 2016, before the Principal Subordinate Court, Namakkal, against the petitioner herein under Section 9 of the Hindu Marriage Act. The petitioner on the other hand filed M.C.No.224 of 2016, before the First Additional Family Court, Chennai, against the respondent. The petitioner, who is presently residing in Chennai, has come forward with this transfer petition.

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

3.The respondent filed the proceedings in HMOP No.115 of 2016, before the Principal Subordinate Court, Namakkal, praying for a decree of restitution of conjugal rights. The petitioner, thereafter filed M.C.No.224 of 2016, before the First Additional Family Court, Chennai, claiming maintenance. Both the proceedings are pending.

4. According to the petitioner, she is pursuing her P.Hd. Course at Chennai and as such, it would not be possible for her to defend the proceedings before the Principal Subordinate

Court, Namakkal.

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. There is no dispute that the matrimonial proceeding was initiated only by the respondent. The respondent has to appear before the First Additional Family Court, Chennai, to defend the proceedings in M.C.No.224 of 2016.

7. In the result, the proceedings in HMOP No.115 of 2016 is withdrawn from the file of Principal Subordinate Court, Namakkal and is transferred to the file of First Additional Family Court, Chennai, to be tried along with M.C.No.224 of 2016.

8. The learned Subordinate Judge is requested to dispose of the matrimonial proceedings, as expeditiously as possible.

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

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Principal Subordinate Court, Namakkal.

2.The First Additional Family Court, Chennai

+1 CC to Mr. K.S. Karthik Raja, Advocate Sr.No.54542

+1 CC to Mr. V.R. Appaswamee, Advocate Sr.No.54418

Transfer CMP No.434 of 2016

SR (CO)

MD : 21/10/2016

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