

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.438 of 2016 and

CMP.No.11884 of 2016

Iswarya ...Petitioner/Respondent

versus

V.Ganesh ...Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw H.M.O.P.No.21 of 2016 from the file of Family Court at Villupuram and transfer the same to the file of Additional Family Court, Coimbatore to be tried along with HMOP No.1266 of 2015 and M.C.No.78 of 2016.

For Petitioner : Mr.S.Ramesh
For Respondent : No appearance

O R D E R

The petitioner initiated original proceedings in HMOP No.1266 of 2015 before the Additional Family Court at Coimbatore, praying for a decree of divorce. The respondent, on receipt of notice from the Trial Court filed HMOP No.21 of 2016 before the Family Court at Villupuram, invoking Section 9 of the Hindu Marriage Act.

2. The petitioner has come up with this petition to transfer the proceedings in HMOP No.21 of 2016 from the file of Family Court at Villupuram to the file of Additional Family Court, Coimbatore for trial along with HMOP No.1266 of 2015 and MC.No.78 of 2016.

3. 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.

4. The proceedings initiated by the petitioner for divorce in HMOP No.1266 of 2015 is pending on the file of Additional Family Court at Coimbatore. The proceedings in M.C.No.78 of 2016 filed by the petitioner for maintenance is pending before the Additional Family Court at Coimbatore. The proceedings initiated by the respondent in HMOP No.21 of 2016, praying for a decree under Section 9 of the Hindu Marriage Act is pending on the file of Family Court at Villupuram.

5. It is evident that there are two proceedings now pending before two different Courts. In case, these two proceedings are taken up by 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, 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 produced sufficient materials justifying her request for transfer. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in H.M.O.P.No.21 of 2016 is withdrawn from the file of Family Court, Villupuram and is transferred to the file of Additional Family Court, Coimbatore, to be tried along with HMOP No.1266 of 2015 and MC No.78 of 2016.

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

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1.The Additional Family Court, Coimbatore

2.The Family Court, Villupuram.

+1 cc to Mr.S.Ramesh,advocate,sr.62452

pvs(co
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Transfer CMP No.438 of 2016

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