

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Tr.CMP.No.44 of 2016
and CMP.No.738 of 2016

N.Usha

.. Petitioner

Vs.

N.Prabhakaran

.. Respondent

Prayer: Transfer Petition filed under Section 24 of Civil Procedure Code, praying to withdraw and transfer the proceedings in HMOP.No.107 of 2015 pending on the file of the Family Court, Villupuram, to the file of the Family Court, Chennai.

For Petitioner : Ms.Vasudha Thiagarajan

For Respondent : Mr.D.Ravichander

ORDER

The petitioner has filed a divorce petition in HMOP.No.107 of 2015 before the Family Court at Villupuram. Subsequently, she settled at Chennai. The petitioner, thereafter filed this transfer petition.

2. The learned counsel for the petitioner submitted that on multiple occasions, the matter was taken up by the Family Court, Villupuram. However, the respondent failed to appear before the Court and the matter was adjourned periodically.

3. The learned counsel for the respondent disputed the contentions taken by the petitioner. The petitioner has initially chosen the venue and as such, she should continue the proceedings there. According to the learned counsel, even in the year 2015, the petitioner was staying at Chennai and was employed here. Even then, she has filed the proceedings at Villupuram. She has filed this petition with ulterior motives.

4. According to the petitioner, she is presently residing at Chennai and it would not be possible for her to appear before the Family Court, Villupuram, frequently.

5. The respondent is not employed and he is stated to be residing at Villupuram.

6. The wife is given a statutory protection under Section 19(iii) of the Hindu Marriage Act, 1955 to file matrimonial proceedings before the Court under whose jurisdiction she is residing at the time of institution of the proceedings.

7. The divorce case was instituted in the year 2015 before the Family Court, Villupuram. In view of the employment of the petitioner at Chennai and her residence here, it would not be possible for her to prosecute the proceedings pending before the Family Court, Villupuram. I am therefore of the view that the matter requires transfer.

8. The proceedings in HMOP.No.107 of 2015 is withdrawn from the file of Family Court, Villupuram and is transferred to the file of the Family Court, Chennai, for disposal on merits.

In the upshot, I allow the transfer petition. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ds
To

1.The Judge
Family Court, Villupuram

2.The Judge
Family Court Chennai

+1 cc to Mr.D.Ravichander Advocate sr 51359
+1 cc to Mr.R.Thiagarajan Advocate sr 51554

Tr.CMP.No.44 of 2016

aa17/10/2016