

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.451 of 2016 and

CMP.No.12052 of 2016

Sathiya Vani

...Petitioner

versus

M.Krishnamoorthy

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw the proceedings in OP.No.59 of 2016 on the file of the Sub-Court, Hosur and transfer the same to the file of the Sub-Court at Harur.

For Petitioner : Mr.V.Sekar
For Respondent : Mr.Palanivel

O R D E R

The petitioner filed a petition under Section 9 of the Hindu Marriage Act against the respondent before the Sub-Court, Harur in HMOP No.23 of 2016. The respondent, thereafter, filed a petition in O.P.No.59 of 2016 before the Sub-Court at Hosur for restitution of conjugal rights. The present request is to transfer the proceedings from the Sub-Court at Hosur to Sub-Court, Harur.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. There is no dispute that two proceedings are now pending before two different Courts. The proceedings initiated by the petitioner is now pending before the Sub-Court at Harur. It was only thereafter, the respondent filed a petition in OP No.59 of 2010 before the Sub-Court, Hosur.

4. The petitioner is residing along with her widowed mother at Harur.

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 demonstrated that it would not be possible for her to appear before the Court at Hosur and contest the proceedings. There is nothing on record to disbelieve the case pleaded by the petitioner. I am therefore of the view that this transfer petition deserves to be allowed.

7. In the result, the proceedings in O.P.No.59 of 2016 is withdrawn from the file of Sub-Court, Hosur and is transferred to the file of the Sub-Court, Harur for disposal along with HMOP.No.23 of 2016.

8. The learned counsel for the respondent submitted that the respondent is a coolie and it would not be possible for him to appear before the Court at Harur on all occasions. It is open to the respondent to file appropriate application before the Trial Court to permit him to appear only on the effective dates of hearing.

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.

svki

To

1.The Sub-Court, Hosur

2.The Sub-Court, Harur

+1 CC to Mr. V. Sekar, Advocate Sr.No.51743

+1 CC to Mr. M. Palanivel, Advocate, Sr.No.51948

Transfer CMP No.451 of 2016

NRJK (CO)

MD : 06/10/2016