

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.460 of 2016
and
CMP.No.12487 of 2016

M.Saraswathi ... Petitioner/Respondent

versus

G.S.Sivanandam Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP No.555 of 2016 from the file of the District Family Court, Madurai and transfer the same to the file of the Family Court, Coimbatore.

For Petitioner : Ms.V.S.Usha Rani

For Respondent : Mr.C.D.Johnson

O R D E R

The respondent in HMOP No.555 of 2016 on the file of the Family Court at Madurai has come up with this petition with a request to transfer the proceedings to the Family Court at Coimbatore for disposal.

2. In the affidavit filed in support of the petition, it is stated by the petitioner that she is a permanent resident of Coimbatore. She is having a baby to be looked after by her and as such, it would not be possible for her to appear before the Family Court at Madurai and contest the proceedings.

3. The learned counsel for the respondent submitted that the respondent has received a life threat from a close relative of the petitioner and as such, it would not be possible for him to appear before the Court at Coimbatore. It is further submitted that an attempt was made even to assault the respondent and as such, he apprehends bodily injury in case he is made to appear before the Court at Coimbatore.

4. The respondent initiated proceedings before the Family Court at Madurai. The petitioner is a resident of Coimbatore. It would not be possible for the petitioner to appear before the Court at Madurai along with the new born child.

5. The petition is opposed primarily on the ground that there is a life threat to the respondent. It is always open to the respondent to approach the concerned Police or Court in case there is a threat to his life or difficulty to appear before the Court at Coimbatore.

6. The petitioner has produced sufficient materials warranting transfer of the case to the Court at Coimbatore. There is nothing on record to disbelieve the version given by the petitioner for transfer.

7. Moreover, 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.

8. I am therefore of the view that the transfer petition deserves to be allowed.

9. In the result, the proceedings in O.P.No.555 of 2016 is withdrawn from the file of the Family Court, Madurai, and is transferred to the file of the Family Court, Coimbatore, for disposal on merits. It is open to the petitioner to approach the Trial Court to permit him to appear only on the effective dates of hearing instead of daily appearance. If any such application is filed, the learned trial Judge shall consider the same taking into account the background facts.

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

Sd/-

Assistant Registrar(CO)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

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To

1.The District Judge,
Family Court, Madurai.

2.The District Judge,
Family Court, Coimbatore.

+lcc to Mr.V.Usha Rani, Advocate, S.R.No.51691
+lcc to Mr.C.D.Johnson, Advocate, S.R.No.51774

Transfer CMP No.460 of 2016

GR(CO)

CA(05/10/2016)