

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.464 of 2016 and

CMP.No.12554 of 2016

G.Kokila Rani

...Petitioner

versus

P.Kuppusamy

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw and transfer the HMOP No.67 of 2016 pending on the file of Sub-Court, Perambalur to the file of Sub-Court, Trichy.

For Petitioner : Mr.K.A.Mariappan

For Respondent : Mr.K.Sannjay

O R D E R

The respondent initiated proceedings in HMOP No.67 of 2016 before the Sub-Court at Perambalur, praying for a decree under Section 9 of the Hindu Marriage Act. The petitioner, who was shown as respondent in HMOP No.67 of 2016 has come up with this petition for transfer.

2. The learned counsel for the respondent submitted that the petitioner has instituted proceedings for partition in O.S.No.52 of 2016 before the Principal District Court at Karur and as such, there is no need for transferring the matrimonial proceedings to a Court outside Perambalur.

3. The proceedings in HMOP No.67 of 2016 was instituted by the respondent before the Sub-Court at Perambalur. The petitioner is stated to be a resident of Trichy. According to the petitioner, it would be very difficult for her to appear before the Subordinate Court at Perambalur for the purpose of defending the proceedings in HMOP No.67 of 2016. Moreover, the petitioner is maintaining her 6 years old child, who is a student of Kamala Niketan Montessori School at Trichy.

4. 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.

5. The petitioner has produced sufficient materials to justify her request for transfer. I am therefore of the view that the transfer petition deserves to be allowed, notwithstanding the pendency of the civil suit filed for partition before the District Court at Karur, where, the immovable property is situated.

6. The proceedings in H.M.O.P.No.67 of 2016 is withdrawn from the file of Subordinate Court, Perambalur and is transferred to the file of Subordinate Court, Trichy, for disposal on merits.

7. 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 Subordinate Court, Perambalur

2.The Subordinate Court, Trichy.

+1 cc to Mr.K.A.Mariappan,advocate,sr.61959

+1 cc to Mr.K.Sanjay, advocate,sr.61892.

pvs (co)
krd 23/11

Transfer CMP No.464 of 2016

सत्यमेव जयते

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