

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.480 of 2016
and
CMP.No.13148 of 2016

H.Sujitha

... Petitioner

versus

D.Rajasekar

.... Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw and transfer HMOP No.90 of 2016 on the file of Family Court at Dindigul to Principal Family Court at Chennai.

For Petitioner : Mr.Vinod Paul Tyagaraj David

For Respondent : Mr.M.R.Radhakrishnan

O R D E R

The respondent in HMOP No.90 of 2016 on the file of Family Court at Dindigul has come up with this transfer petition with a prayer to transfer the proceedings to a Court at Chennai.

2. The respondent instituted proceedings in HMOP.No.90 of 2016 before the Family Court, Dindigul, praying for a decree of divorce.

3. The petitioner is a resident of Chennai. According to the petitioner, it would not be possible for her to defend the proceedings now pending before the Family Court at Dindigul. The petitioner, therefore, seeks an order to transfer the proceedings to the Family Court at Chennai.

4. The learned counsel for the respondent submitted that the parents of the respondent were attacked by the henchmen of the petitioner when the matter was taken up before the Family Court at Dindigul. The Police registered a case in Crime No.1190 of 2015 on the file of Taluk Police Station, Dindigul. The learned counsel, therefore, submitted that the security of the respondent is also a concern to be taken note of by the Court while deciding the transfer petition.

5. The petitioner is a permanent resident of Chennai. She is staying along with her minor daughter. The respondent, though a resident of Dindigul, is employed at Bangalore. The petitioner has produced sufficient materials to demonstrate that it would be difficult for her to defend the proceedings, which is now pending on the file of Family Court at Dindigul. There is nothing on record to disbelieve the case pleaded by the petitioner in the transfer petition. I am therefore of the view that the matter requires transfer.

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 The proceedings in H.M.O.P.No.90 of 2016 is withdrawn from the file of Family Court, Dindigul and is transferred to the file of Principal Family Court, Chennai, for disposal on merits.

8. The petitioner must ensure that no untoward incident happens at Chennai while the respondent appears before the Family Court. In case, there is any attempt on the part of the petitioner to attack the respondent or to cause him bodily injury, liberty is given to the respondent to move this Court for re-transfer of the proceedings to some other Court from Chennai.

9. The Transfer Civil Miscellaneous Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

svki
To

1.The Judge
Family Court, Dindigul.

2.The Principal Judge,
Family Court, Chennai.

+2cc's to Mr.David Tyagaraj, Advocate, S.R.No.58567
+1cc to Mr.M.R.Radhakrishnan, Advocate, S.R.No.58790

Transfer CMP No.480 of 2016

KSJ(CO)
CA/12/11/2016)