

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.498 OF 2016

AND CMP NO.13589 OF 2016

Geetha ... Petitioner

versus

Jeeva Shankar ... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the case in HMOP No.107 of 2016 on the file of the Subordinate Court, Devakottai and to transfer the same to the Subordinate Court, Poonamallee.

For Petitioner : Mr.R.Karthikeyan
For Respondent : Mr.K.Balaji

O R D E R

The respondent initiated proceedings in H.M.O.P.No.107 of 2016, before the Subordinate Court, Devakottai, against the petitioner, praying for a decree of divorce.

2. The petitioner, who was shown as respondent in the said matrimonial proceedings, is before this Court, by way of this transfer petition.

3. The learned counsel for the petitioner contended that the petitioner is a resident of Maduravoyal, Chennai. The petitioner has already filed a maintenance case before the learned Judicial Magistrate, Poonamallee. According to the petitioner, it would not be possible for her to travel all along from Chennai to Devakottai for the purpose of defending the proceedings in H.M.O.P.No.107 of 2016.

4. The learned counsel for the respondent on the other hand submitted that there is a life threat to the respondent. According to the learned counsel, in case the matter is

transferred to the Judicial Magistrate Court, Poonamallee, the respondent would not be in a position to prosecute the proceedings. The learned counsel wanted the matter to be transferred to the Family Court at Chennai.

5. The respondent initiated a proceedings in H.M.O.P.No.107 of 2016, before the Subordinate Court at Devakottai. The respondent is stated to be employed in UAE.

6. The petitioner is a resident of Maduravoyal, Chennai. According to the petitioner, it would not be possible for her to travel from Chennai to Devakottai, for the purpose of defending the proceedings in H.M.O.P.No.107 of 2016.

7. The request now is to transfer the matrimonial proceedings to the Subordinate Court, Poonamallee, where the personal appearance of the respondent is not compulsory.

8. 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.

9. The petitioner in her affidavit filed in support of this transfer petition explained her difficulties in appearing before the Sub Court at Devakottai. I am therefore of the view that the transfer petition deserves to be allowed.

10. The proceedings in H.M.O.P.No.107 of 2016 is withdrawn from the file of Subordinate Court, Devakottai and is transferred to the file of Subordinate Court at Poonamallee, for disposal on merits.

11. The learned counsel for the respondent submitted that the respondent is employed at UAE, and as such, it would not be possible for him to appear before the Court at Poonamallee.

12. The respondent is given liberty to file appropriate application before the Trial Court, to dispense with his personal appearance, on the normal dates of hearing, subject to the condition that he would appear on all the effective dates of hearing. In case, any such application is filed, the same shall be considered and disposed of by the learned Trial Judge, taking into account the employment of the petitioner in UAE.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK

To

1.The Subordinate Court
Devakottai.

2.The Subordinate Court
Poonamallee.

+1cc to Mr.R. Karthikeyan, Advocate, S.R.No.66414

+1cc to Mr.K. Balagi, Advocate, S.R.No.66208

nrjk(CO)
md(23/12/2016)

TR CMP NO.498 OF 2016

सत्यमेव जयते

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