

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.509 of 2016
and
CMP.No.13684 of 2016

R.Saraswathi

...Petitioner

versus

K.Durairaj

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.49 of 2016 from Sub Court, Arni, Thiruvannamalai District, and to transfer the same to the file of II Additional Family Court, Chennai.

For Petitioner : Mr.V.T.Balaji

For Respondent : No appearance

O R D E R

The petitioner has come with this Transfer Petition, for withdrawal of the proceedings in H.M.O.P.No.49 of 2016, from the file of the Subordinate Court, Arni, Thiruvannamalai District, and to transfer the same to the file of the II Additional Family Court, Chennai.

2. Heard the learned counsel appearing on behalf of the petitioner. None appears on behalf of the respondent, inspite of printing his name after issuing notice to the address, as shown in the Petition in H.M.O.P.No.49 of 2016.

3. The respondent initiated proceedings in H.M.O.P.No.49 of 2016, before the Subordinate Court, Arni, praying for a decree of divorce. The petitioner, on the other hand, filed O.P.No.2963 of 2016, before the II Additional Family Court, Chennai, praying for a decree under Section 9 of the Hindu Marriage Act, 1955.

4. The petitioner is a resident of Chennai. According to the petitioner, it would not be possible for her to defend the proceedings pending before the Subordinate Court, Arni. There is nothing on record to suspect the bona fides in filing this Transfer Petition.

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 produced sufficient materials justifying the transfer of the proceedings. I am therefore of the view that the Transfer Petition deserves to be allowed.

7. The proceedings in H.M.O.P.No.49 of 2016, is withdrawn from the file of the Subordinate Court, Arni, Thiruvannamalai District, and is transferred to the file of II Additional Family Court, Chennai, for disposal along with O.P.No.2963 of 2016.

8. The Transfer Civil Miscellaneous Petition is allowed, as indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

sd

To

1. The Sub Court, Arni,
Thiruvannamalai District.
2. The II Additional Family Court,
Chennai

1 cc to Mr.V.T. Balaji, Advocate, Sr. 63385

Transfer CMP No.509 of 2016

BR (CO)
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