

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.521 of 2016 and

CMP.No.14035 of 2016

V.Rekha

...Petitioner

versus

K.Chittibabu

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer HMOP No.39 of 2016 pending on the file of Sub Judge at Cheyyar to Family Court at Chennai.

For Petitioner : Ms.A.Yamuna
For Respondent : Mr.D.Lakshmipathy

O R D E R

The respondent filed a petition in HMOP No.39 of 2016 before the Sub-Court, Cheyyar against the petitioner, praying for a decree under Section 9 of the Hindu Marriage Act. It is the grievance of the petitioner that the respondent has not been appearing before the Trial Court. According to the petitioner, she was made to appear on all the hearing dates. However, there was no progress in spite of her readiness to live with him. The petitioner, therefore, filed this transfer petition.

2. The learned counsel for the petitioner contended that the petitioner is ready to give consent for passing an order in HMOP No.39 of 2016. Since the respondent failed to appear before the Trial Court on all the dates of hearing, the Trial Court was not in a position to take up the matter. The petitioner therefore wanted transfer of the matter.

3. I have also heard the learned counsel for the respondent.

4. The proceedings in HMOP No.39 of 2016 was instituted by the respondent, praying for a decree of restitution of conjugal rights. The petitioner is a resident of Chennai. The proceeding is now pending before the Sub-Court at Cheyyar. The respondent failed to appear before the Trial Court and as such, the matter was adjourned from time to time.

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 is a permanent resident of West Mambalam at Chennai. She is therefore perfectly correct in her contention that it would not be possible for her to defend the proceedings, which is pending before the Sub-Court at Cheyyar. I am therefore of the view that the transfer petition deserves to be allowed.

7. The proceedings in H.M.O.P.No.39 of 2016 is withdrawn from the file of Sub-Court, Cheyyar and is transferred to the file of Family Court, Chennai, for disposal on merits.

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

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1.The Sub Judge, Cheyyar

2.The Judge, Family Court, Chennai.

+1 cc to Mr.D.Lakshmipathy,advocate,sr.57481

+1 cc to Mr.G.Arun,advocate,sr.57351.

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सत्यमेव जयते

Transfer CMP No.521 of 2016

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