

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.532 of 2016
and
CMP.No.14263 of 2015

P.K.Muthubharathi @ Bharathi ... Petitioner/Respondent

versus

R.Ponrathinam @ Ponraj Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., for withdrawal of HMOP No.471 of 2016 from the file of Subordinate Court, Tambaram and transfer the same to the file of III Additional Family Court, Chennai, tried along with M.C.No.344 of 2016.

For Petitioner : Mr.D.Sivaramkumar

For Respondent : No appearance

O R D E R

Heard the learned counsel for the petitioner. None appears on behalf of the respondent, inspite of printing his name in the cause list.

2. The respondent in HMOP No.471 of 2016 on the file of Sub-Court, Tambaram is the petitioner in this transfer petition.

3. The respondent instituted proceedings in HMOP No.471 of 2016 before the Sub-Court, Tambaram, praying for a decree of divorce. The petitioner on the other hand filed M.C.No.344 of 2016 before the III Additional Family Court, Chennai claiming maintenance. Both the proceedings are now pending before the respective courts.

4. The petitioner is stated to be a permanent resident of West Mambalam, Chennai. According to the petitioner, it would be difficult for her to appear before the Sub-Court at Tambaram for the purpose of defending the proceedings in HMOP No.471 of 2016. There is nothing on record to disbelieve the case pleaded by the petitioner in the 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. There are two proceedings now pending before two different Courts. In case, two proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter. I am therefore of the view that the petitioner has made out a case for transfer.

7. The proceedings in H.M.O.P.No.471 of 2016 is withdrawn from the file of Sub-Court, Tambaram and is transferred to the file of III Additional Family Court, Chennai for disposal along with M.C.No.344 of 2016.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Sub Court,
Tambaram.

2.The III Additional Family Court Judge,
III Additional Family Court,
Chennai.

+lcc to Mr.D.Sivaram Kumar, Advocate, S.R.No.55290

Transfer C.M.P No.532 of 2016

SR(CO)
CA(19/10/2016)