

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.533 OF 2016

AND CMP NO.14315 OF 2016

S.Vidyalakshmi

... Petitioner

Versus

S.Sakthidass

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the case in H.M.O.P.No.46 of 2016 from the file of the learned Sub Court, Nagapattinam and transfer the same to the file of Family Court, Trichy, Trichy District.

For Petitioner : Mr.S.Giritharan

For Respondent : No appearance

O R D E R

The respondent initiated a matrimonial proceedings in H.M.O.P.No.46 of 2016, before the Sub Court, Nagapattinam, against the petitioner, praying for a decree of divorce.

2. The petitioner, on the other hand, initiated a proceedings in M.C.No.62 of 2016 before the Family Court at Trichy, against the respondent claiming maintenance.

3. The petitioner has come up with this transfer petition to withdraw the proceedings in H.M.O.P.No.46 of 2016, pending on the file of Sub Court, Nagapattinam, and to transfer the same to the file of Family Court, Trichy, so as to enable the Family Court, Trichy, to dispose of both the matters together.

4. Heard the learned counsel for the petitioner. None appears on behalf of the respondent in spite of printing his name in the cause list after service.

5. There are two proceedings now pending before two different Courts. The proceedings in H.M.O.P.No.46 of 2016 is pending before the Sub Court, Nagapattinam. The connected proceedings in M.C.No.62 of 2016 is pending before the Family

Court, Trichy. In case, these two proceedings are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

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 petitioner has produced sufficient materials indicating her difficulties to appear before the Sub Court at Nagapattinam. In fact, there is nothing on record to suspect the bonafides in filing this transfer petition. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings H.M.O.P.No.46 of 2016 is withdrawn from the file of Sub Court, Nagapattinam, and is transferred to the file of Family Court, Trichy, for disposal along with M.C.No.62 of 2016.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

TK
To

1.The Sub Judge
Nagapattinam.

2.The Family Judge
Trichy, Trichy District.

+1 cc to Mr.S.Giritharan Advocate sr 66524

TR CMP NO.533 OF 2016

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