

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.540 of 2016 and

CMP.No.14463 of 2016

B.U.Suganya ...Petitioner/Respondent
versus

RKS Himachalnath ...Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw O.P.No.2899 of 2016 from the file of II Additional Family Court, Chennai and transfer the same to be tried at Family Court, Dindigul.

For Petitioner : Mr.N.Srinivasa Raghavan
For Respondent : Mr.T.P.Sekar for
Mr.M.Vinoth Kumar

O R D E R

The respondent initiated matrimonial proceedings in OP.No.2899 of 2016 for restitution of conjugal rights before the II Additional Family Court at Chennai. The petitioner, on receipt of notice from the Trial Court filed this petition for transfer.

2. The transfer petition is opposed by the respondent by filing counter affidavit. According to the respondent, in case, the matter is transferred to Dindigul, his life would be in danger.

3. The petitioner is a resident of Dindigul. According to the petitioner, it would not be possible for her to travel all along from Dindigul to Chennai for the purpose of defending the proceedings in O.P.No.2899 of 2016

4. The learned counsel for the respondent while opposing the prayer made by the petitioner submitted that the matter could be transferred to any other court, except Dindigul, in view of the statement made in the counter affidavit and more particularly, paragraph 8.

5. The matrimonial proceedings initiated by the respondent is pending before the II Additional Family Court at Chennai. There is no dispute that the petitioner is a resident

of Nangal Nagar in the district of Dindigul. The petitioner is looking after her minor child. According to the petitioner, she is at the mercy of her parents, even for maintenance.

6. The respondent in his counter affidavit contended that there is life threat to him, in case, he is made to appear before the Court at Dindigul. There is no evidence produced to substantiate the said contention. I am therefore of the view that no reliance could be placed in the statement made in the counter with respect to the so called life threat.

7. 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.

8. The petitioner has to travel all along from Dindigul to Chennai, in case, she wanted to contest the proceedings in OP.No.2899 of 2016. In view of the background facts, I consider it deem and fit to transfer the proceedings.

9. The proceedings in O.P.No.2899 of 2016 is withdrawn from the file of II Additional Family Court, Chennai and is transferred to the file of Family Court, Dindigul, for disposal on merits.

10. 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 and would cooperate for an early disposal of the matrimonial proceedings. In case, any such application is filed, the same shall be considered by the learned Trial Judge taking into account the employment and residence of the respondent at Chennai.

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

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1.The Judge,II Additional Family Court, Chennai

2.The Judge, Family Court, Dindigul.

+1 cc to Mr.N.Srinivasa raghavan,advocate,sr.67594

+1 cc to Mr.T.P.Sekar,advocate,sr.67968.

rv(co)

krd 27/12

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