

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.543 of 2016
and
CMP.No.14590 of 2016

E.Susi ... Petitioner/Respondent

Versus

P.Kavin Kumar ... Respondent/Petitioner

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw HMOP No.162 of 2015 on the file of Sub-Court, Namakkal and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.K.Thilageswaran

For Respondent : Mr.C.Prakasam

O R D E R

The respondent initiated proceedings in HMOP No.162 of 2015 before the Sub-Court, Namakkal, praying for a decree of divorce. The petitioner, who was arrayed as respondent in the said original proceedings has come up with this petition for transfer.

2. The transfer is opposed by the respondent primarily on the ground that being a resident and employee of a Bank at Namakkal, it would not be possible for him to appear before the Family Court at Coimbatore, in case, the matter is transferred.

3. Heard the learned counsel for the petitioner.

4. The learned counsel for the respondent submitted that the respondent is an employee of Equitas Bank at Namakkal. Since the Court at Coimbatore is a Family Court, the respondent has to appear on all the dates of hearing. It would not be possible for the respondent to appear on account of his employment at Namakkal. The learned counsel, therefore, wanted this matter to be retained on the file of Sub-Court at Namakkal.

5. The petitioner is a permanent resident of Coimbatore. The proceedings initiated by the respondent is pending before the Sub-Court at Namakkal. According to the petitioner, it would not be possible for her to defend the proceedings effectively, in case, the same is continued on the file of Sub-Court at Namakkal.

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 only difficulty projected by the respondent appears to be his pre-occupation at Namakkal. The employment of the respondent at Namakkal alone cannot be a reason to deny the request made by the petitioner for transfer of the proceedings. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in H.M.O.P.No.162 of 2015 is withdrawn from the file of Sub-Court, Namakkal and is transferred to the file of Family Court, Coimbatore, for disposal on merits.

9. 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 Namakkal.

10. The learned Judge, Family Court, Coimbatore, is requested to dispose of the matrimonial proceedings as expeditiously as possible.

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

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The SubOrdinate Judge,
Namakkal.

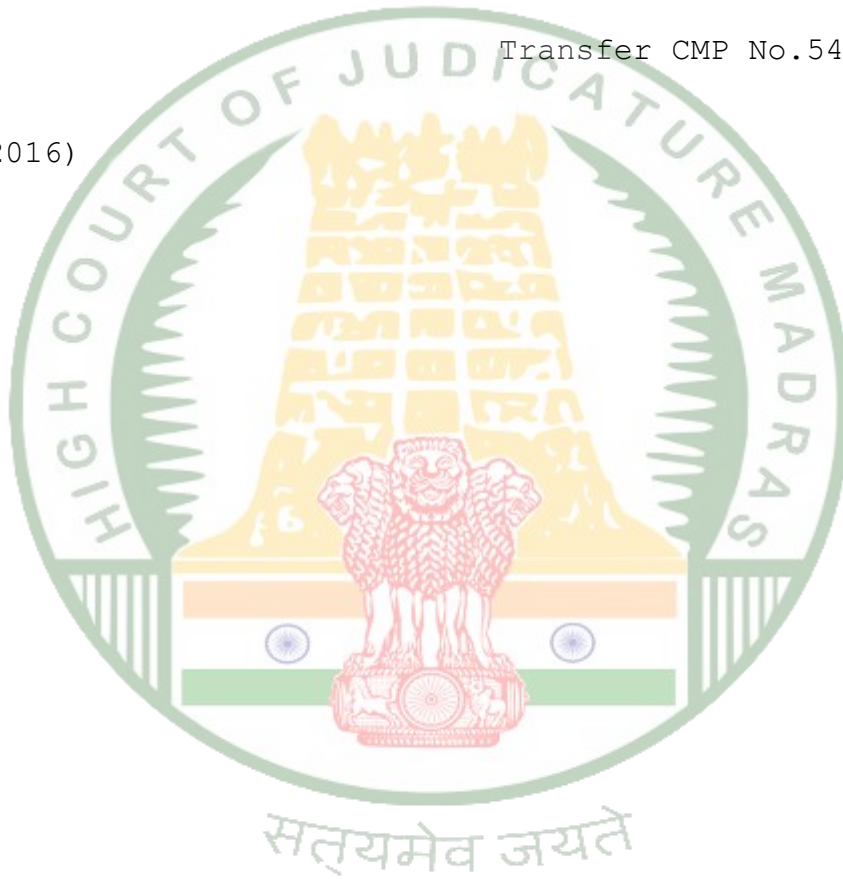
2.The Family Court,
Coimbatore.

+lcc to Mr.C.Prakasam, Advocate, S.R.No.63074

+lcc to Mr.K.Thilageswaran, Advocate, S.R.No.62578

Transfer CMP No.543 of 2016

SR(CO)
CA(01/12/2016)



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