

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

Tr. C.M.P.No.548 of 2016
and C.M.P.No.14995 of 2016

D.Muthulakshmi

... Petitioner

Versus

J.Rajesh

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.102 of 2016 on the file of the Subordinate Court at Mannarkudi and transfer the same to proceed along with H.M.O.P.No.112 of 2016 on the file of the Subordinate Court at Nagapattinam.

For Petitioner : No appearance
For Respondent : No appearance

ORDER

The petitioner instituted a proceedings in H.M.O.P.No.112 of 2016 before the Subordinate Court, Nagapattinam, praying for a decree to declare the marriage between the parties as null and void. The respondent on the other hand instituted a proceedings in H.M.O.P.No.102 of 2016 before the Subordinate Court, Mannarkudi, invoking Section 9 of the Hindu Marriage Act, 1955. The petitioner has come up with this Transfer Petition, seeking an order for transfer of proceedings in H.M.O.P.No.102 of 2016 from the file of Subordinate Court, Mannarkudi, to the file of Subordinate Court, Nagapattinam.

2. None appears on behalf of the petitioner. There is no appearance on behalf of the respondent also, in spite of printing his name in the cause list after service.

3. There are two proceedings now pending before two different Courts. The proceedings in H.M.O.P.No.112 of 2016 instituted by the petitioner is pending on the file of Subordinate Court at Nagapattinam. The subsequent proceedings in H.M.O.P.No.102 of 2016 filed by the respondent is pending on the file of the Subordinate Court at Mannarkudi. 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 is correct in filing this Transfer Petition.

4. 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.

5. The petitioner has given sufficient reasons justifying her request for transfer. The Transfer Petition deserves to be allowed, taking into account the pendency of the proceedings before the Subordinate Court at Nagapattinam.

6. The proceedings in H.M.O.P.No.102 of 2016 is withdrawn from the file of Subordinate Court, Mannarkudi and is transferred to the file of Subordinate Court, Nagapattinam, for disposal along with H.M.O.P.No.112 of 2016.

7. 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 Court,
Mannarkudi.

2. The Subordinate Court,
Nagapattinam.

Tr. C.M.P.No.548 of 2016

RV(CO)
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