

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.554 OF 2016
AND CMP NO.15212 OF 2016

C.Meenal @ Menaka

... Petitioner

Versus

S.Pooventhan

... 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.135 of 2013 pending on the file of Principal Subordinate Court at Ponneri and transfer the same to the II Additional Family Court, Chennai for joint trial with the case in H.M.O.P.No.3130 of 2013 and in M.C.No.205 of 2015 pending on the file of the II Additional Family Court at Chennai.

For Petitioner : Mr.V.Kayalvizhi

For Respondent : No appearance

O R D E R

The respondent instituted a proceedings in H.M.O.P.No.135 of 2013, before the Principal Subordinate Court, Ponneri, against the petitioner, praying for a decree of divorce.

2. The petitioner, on the other hand, filed a petition in H.M.O.P.No.3130 of 2013, before the II Additional Family Court, Chennai, invoking Section 9 of the Hindu Marriage Act, 1955.

3. The petitioner has come up with this transfer petition to withdraw the proceedings in H.M.O.P.No.135 of 2013, pending on the file of Principal Subordinate Court, Ponneri and to transfer the same to the file of II Additional Family Court, Chennai, for disposal.

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 pending before two different Courts. The proceedings in H.M.O.P.No.135 of 2013 is pending before the Principal Subordinate Court, Ponneri. The petitioner is a resident of Chennai. According to the petitioner, it would not be possible for her to appear before the Principal Subordinate Court at Ponneri, for the purpose of defending the proceedings in H.M.O.P.No.135 of 2013. Moreover, there is another proceedings pending between the parties in H.M.O.P.No.3130 of 2013, before the II Additional Family Court, Chennai. Since there are two proceedings pending before two different Courts, it would be in the interest of both parties to transfer one of such proceedings, so as to enable the transferee Court to dispose of both the proceedings together.

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 Ponneri. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in H.M.O.P.No.135 of 2013 is withdrawn from the file of Principal Subordinate Court, Ponneri, and is transferred to the file of II Additional Family Court, Chennai, for disposal along with H.M.O.P.No.3130 of 2013 and M.C.No.205 of 2015.

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

TK

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1.The Principal Subordinate Court
Ponneri.

2.The II Additional Family Court
Chennai.

+1CC to MR.V.KAYALVIZHI Advocate SR.NO.65333

TR CMP NO.554 OF 2016

EV[CO]
MK:03/01/2017



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