

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

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

Tr.C.M.P.No.557 of 2016
and C.M.P.No.15250 of 2016

Manjula

... Petitioner

Versus

Mahendran

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. praying to withdraw F.C.O.P.No.373 of 2016 from the file of the Family Court, Erode and transfer the same, to the file of the Subordinate Court, Sankari to be tried along with H.M.O.P.No.27 of 2016.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Mr.P.Pandiyaraj

ORDER

The respondent in F.C.O.P.No.373 of 2016 on the file of the Family Court, Erode, is the petitioner in this Transfer Civil Miscellaneous Petition.

2. The respondent initiated the proceedings in F.C.O.P.No.373 of 2016 before the Family Court, Erode, praying for a decree of divorce. The petitioner on the other hand filed H.M.O.P.No.27 of 2016, before the Subordinate Court, Sankari, for restitution of conjugal rights, under Section 9 of the Hindu Marriage Act. Both the proceedings are now pending before the respective courts.

3. The petitioner has come up with this Transfer Civil Miscellaneous Petition, seeking an order for transfer of proceeding in F.C.O.P.No.373 of 2016 from the file of Family Court, Erode, to the file of Subordinate Court, Sankari.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The respondent initiated the proceedings in F.C.O.P.No.373 of 2016 praying for a decree of divorce before the Family Court, Erode. The petitioner is a resident of Moolakkattanoor, Kasthuripatty Village, Sankari Taluk.

6. According to the petitioner, she is residing along with her minor son at Sankari and as such, it would not be possible for her to appear before the Family Court at Erode, for the purpose of defending the proceedings in F.C.O.P.No.373 of 2016. There is nothing on record to suspect the bona fides in filing the transfer petition.

7. In view of the above, the Transfer Civil Miscellaneous Petition deserves to be allowed.

8. The proceedings in F.C.O.P.No.373 of 2016 is withdrawn from the file of the Family Court at Erode and is transferred to the file of the Subordinate Court at Sankari for trial along with H.M.O.P.No.27 of 2016.

9. The respondent is given liberty to make an 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 co-operate for an early disposal of the pending proceedings. In case, such an application is filed, the same shall be considered and disposed of by the learned Trial Judge.

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

Sd/-

Asst. Registrar

/ true copy/

Sub Assistant Registrar

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To

1. The Family Court, Erode.

2. The Subordinate Court, Sankari.

1cc to Mr.P.Pandiyaraj, Advocate SR.No.59955

1cc to Mr.P.Jagadeesan, Advocate SR.No.59108

Tr.C.M.P.No.557 of 2016

LRS (CO)

CS 12/11/2016