

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.575 of 2016

E.Udayapriya

... Petitioner

versus

M.P.Senthilnathan

... Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw O.P.No.57 of 2016 pending on the file of Family Court, Chennai and the same may be transferred to Sub-Court, Villupuram to be tried along with HMOP No.69 of 2016 pending on the file of Sub-Court, Villupuram.

For Petitioner : Mr.T.Arul

For Respondent : Mr.S.Anil Sandeep

O R D E R

The respondent instituted a proceedings in O.P.No.57 of 2016 before the Principal Family Court, Chennai, praying for a decree of divorce. The petitioner, on the other hand, filed HMOP No.69 of 2016 before the Sub-Court, Villupuram, invoking Section 9 of the Hindu Marriage Act. The petitioner seeks transfer of the proceedings in OP No.57 of 2016 to the Sub-Court, Villupuram for joint trial along with HMOP No.69 of 2016.

2. The learned counsel for the respondent submitted that in case, the matrimonial proceedings is transferred to Sub-Court, Villupuram, it would cause difficulty to the respondent, inasmuch as the family of the petitioner would trouble him physically.

3. There are two proceedings pending before two different Courts. In case, these two proceedings are permitted to take up by two different Courts, there is every possibility of passing contradictory orders in the very same subject matter.

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. There is nothing on record to show that there was a life threat to the respondent either from the petitioner or her family members. If there is any such threat, it is always open to the respondent to approach the concerned Police for protection or to take action.

6. Since there are two proceedings, necessarily, one of such proceeding requires to be transferred so that a particular Court could dispose of both the matters. I am therefore of the view that the transfer petition deserves to be allowed.

7. The proceedings in O.P.No.57 of 2016 is withdrawn from the file of Principal Judge, Family Court, Chennai and is transferred to the file of Sub-Court, Villupuram, for disposal along with HMOP No.69 of 2016.

8. It is open to the respondent 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.

9. The Transfer Civil Miscellaneous Petition is allowed as indicated above. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

svki

To

1.The Principal Judge,
Family Court, Chennai.

2.The Sub Judge,
Villupuram.

+1cc to Mr.S.Anil Sandeep, Advocate, S.R.No.63214

+1cc to Mr.T.Arul, Advocate, S.R.No.62587

Transfer C.M.P No.575 of 2016

SK(CO)

CA/29/11/2016

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