

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Tr.C.M.P. No.600 of 2016
and
C.M.P.No.16322 of 2016

C.Meenakshi

... Petitioner

vs.

C.Karthikeyan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. Praying to withdraw H.M.O.P.No.47 of 2015 from the file of the Subordinate Court at Virudhunagar and to transfer the same to the file of the First Additional Family Court at Chennai to be heard along with HMOP No.2984 of 2015.

For Petitioner : Mr.M.Krishnmoorthy

For Respondent : Ms.S.Karolin Geetha

O R D E R

The respondent initiated proceedings in H.M.O.P.No.47 of 2015 before the Subordinate court at Virudhunagar for divorce. The petitioner, on the other hand, instituted the proceedings in HMOP No.2984 of 2015 before the First Additional Family Court at Chennai for restitution of conjugal rights under Section 9 of the Hindu Marriage Act 1955. The petitioner is before this Court seeking transfer of the proceedings in HMOP No.47 of 2015.

2. The learned counsel for the respondent fairly submitted that the respondent has no objection in allowing the Transfer Petition. According to the learned counsel, the respondent has undergone surgery recently and as such, liberty should be given to him to file an Application before the Trial Court to dispense with his personal appearance.

3. There are two proceedings pending before two different Courts. The proceedings in HMOP No.47 of 2015 filed by the respondent is pending on the file of the Subordinate Court at Virudhunagar. The proceedings in HMOP No.2984 of

2015 filed by the petitioner is pending before the First Additional Family Court at Chennai. In fact, these two proceedings involve a common question. In case, these two cases are taken up by two different Courts, there is a possibility of passing contradictory orders in the very same subject matter. Moreover, the respondent has no objection in transferring the petition. The Transfer Petition, therefore, deserves to be allowed.

4. The proceedings in HMOP No.47 of 2015 is withdrawn from the file of the Subordinate Court at Virudhunagar and is transferred to the file of the First Additional Family Court at Chennai, for disposal along with HMOP No.2984 of 2015.

5. The respondent is given liberty to file an Application before the Trial Court to dispense with his personal appearance. In case, any such Application is made out, the same shall be considered and disposed of by the Trial Court taking into account his health condition.

6. The Transfer Petition is allowed with the above observation. No costs. Connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

asvm
To

1.The Subordinate Judge, Virudhunagar.

2.The Judge, First Additional Family Court,
Chennai.

+1 cc to Mr.S.Karolin Geetha Advocate sr 67272/16
+1 cc to M/s.M.Krishnamoorthy Advocate sr 67669 dt 31/01/2017

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