

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.604 of 2015 and

CMP.No.16362 of 2016

P.Gomathi

...Petitioner

versus

S.Sasi Kumar

...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw HMOP.No.116 of 2016 pending on the file of Sub-Court, Tambaram and transfer the same to the Sub-Court, Namakkal to be heard along with HMOP.No.126 of 2016.

For Petitioner : Ms.Pravin Banu.L.

For Respondent : Mr.Praveen Alexander

O R D E R

The respondent initiated proceedings in HMOP.No.116 of 2016 before the Subordinate Court, Tambaram.

2. The petitioner filed an Original Petition in HMOP.No.126 of 2016 before the Subordinate Court, Namakkal, under Section 9 of the Hindu Marriage Act.

3. The petitioner has come up with this petition for transfer.

4. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

5. There are two proceedings now pending before two different courts. The proceedings for divorce initiated by the respondent is pending before the Subordinate Court, Tambaram in HMOP.No.116 of 2016. The proceedings in HMOP.No.126 of 2016 filed by the petitioner is pending before the Subordinate Court, Namakkal.

6.The petitioner is a resident of Namakkal. According to the petitioner, it would not be possible for her to travel all along from Namakkal to Tambaram for the purpose of defending the proceedings in HMOP.No.116 of 2016. There is nothing on record to disbelieve the case of the petitioner.

7. 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.

8. In case, these 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 has made out a case for transfer.

9. The proceedings in HMOP.No.116 of 2016 is withdrawn from the file of Subordinate Court, Tambaram and is transferred to the file of Subordinate Court, Namakkal for disposal along with HMOP No.126 of 2016.

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

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Subordinate Court,
Tambaram.

2. The Subordinate Court,
Namakkal.

+1 cc MR.PRAVEEN ALEXANDER, ADVOCATE (SR.NO.67989)

+1 CC TO mRS.l.PRAVIN BANU, ADVOCATE (SR.NO.67958)

Transfer CMP No.604 of 2016

CO LRS
CP 20/12/2016