

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.609 OF 2016

AND

C.M.P.NO.16387 OF 2016

S.Pavithra

... Petitioner

Versus

K.Hari Sankar

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw the F.C.O.P.No.153 of 2016 on the file of the Family Court, Salem and transfer the case to the Subordinate Court, Krishnagiri along with H.M.O.P.No.68 of 2016 on the file of the Subordinate Court, Krishnagiri and to conduct the joint trial.

For Petitioner : Mr.N.Sureka

For Respondent : Mr.R.Marudhachalamurthy

O R D E R

The respondent initiated a proceedings in F.C.O.P.No.153 of 2016, before the Family Court, Salem, praying for a decree of divorce.

2. The petitioner, on the other hand, initiated a proceedings in H.M.O.P.No.68 of 2016, before the Subordinate Court, Krishnagiri, invoking Section 9 of the Hindu Marriage Act, 1955.

3. The petitioner has come up with this petition for transfer of the proceedings from Salem to Krishnagiri.

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

5. The petitioner is a resident of Krishnagiri. The matrimonial proceedings initiated by the petitioner is pending before the Subordinate Court at Krishnagiri. According to the petitioner, it would not be possible for her to defend the proceedings in F.C.O.P.No.153 of 2016, in case, the same is

continued at Salem. Since it is a Family Court, the personal presence of the petitioner is compulsory.

6. Section 19(iii-a) of the Hindu Marriage Act, 1955, 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 justifying her request for transfer. I am therefore of the view that the transfer petition deserves to be allowed.

8. The proceedings in F.C.O.P.No.153 of 2016 is withdrawn from the file of Family Court, Salem and is transferred to the file of Subordinate Court, Krishnagiri, for disposal along with H.M.O.P.No.68 of 2016.

9. The learned counsel for the respondent submitted that the respondent is working in a Ship, and as such, it would not be possible for him to appear before the Court at Krishnagiri.

10. The respondent is given liberty 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. In case, any such application is filed, the same shall be considered and disposed of by the learned Trial Judge, taking into account the employment of the petitioner in the Ship.

11. The learned Subordinate Judge, Krishnagiri is directed to dispose of the proceedings as expeditiously as possible.

12. The Transfer Civil Miscellaneous Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

TK

To

1.The Judge,
Family Court,
Salem.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Subordinate Judge,
Krishnagiri.

+1cc to Mr.C.Samivel, Advocate, S.R.No.66903

+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.66997

TR CMP NO.609 OF 2016

SSK (CO)
CA (29/12/2016)



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