

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.613 OF 2016
AND CMP NO.16589 OF 2016

P.Aruna

... Petitioner

Versus

C.Kannan

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure with a prayer to withdraw F.C.O.P.No.382 of 2016 pending on the file of the Family Court, Salem and transfer the same to the Sub Court, Namakkal, to be tried along with H.M.O.P.No.183 of 2016 pending on the file of Sub Court, Namakkal.

For Petitioner : Mr.T.Dhanyakumar

For Respondent : No appearance

O R D E R

The respondent initiated a proceedings in F.C.O.P.No.382 of 2016, before the Family Court at Salem, praying for a decree of divorce.

2. The petitioner, on the other hand filed a petition in H.M.O.P.No.183 of 2016, before the Sub Court, Namakkal, praying for a decree under Section 9 of the Hindu Marriage Act, 1955.

3. The petitioner has now come up with this petition praying for an order for transfer of proceedings in F.C.O.P.No.382 of 2016 to the file of the Sub Court, Namakkal, for joint disposal.

4. Heard the learned counsel for the petitioner. None appears on behalf of the respondent in spite of printing his name in the cause list after service.

5. There are two proceedings now pending before two different Courts. The divorce petition initiated by the respondent is pending before the Family Court at Salem. The petition filed by the petitioner for restitution of conjugal rights in H.M.O.P.No.183 of 2016 is pending before the Sub Court, Namakkal.

6. The petitioner is stated to be a resident of Namakkal. The proceedings initiated by the respondent is now pending before the Family Court at Salem. According to the petitioner, it would not be possible for her to appear before the Family Court at Salem for the purpose of defending the proceedings in F.C.O.P.No.382 of 2016.

7. There is nothing on record to suspect the bonafides in filing this transfer petition. Even otherwise, one of the proceedings requires to be transferred to another Court, for the purpose of avoiding contradictory orders, in the very same subject matter.

8. 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.

9. 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.

10. The proceedings in F.C.O.P.No.382 of 2016 is withdrawn from the file of Family Court, Salem, and is transferred to the file of Sub Court, Namakkal, for disposal along with H.M.O.P.No.183 of 2016.

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

Sd/-

Assistant Registrar(CS II)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

TK

To

1.The Family Court
Salem.

2.The Subordiante Judge,
Namakkal.

+ 1 cc to Mr.T. Dhanyakumar, Advocate Sr.64770

TR CMP NO.613 OF 2016

LRS(CO)

Eu 16.12.16