

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

Transfer CMP No.618 of 2016 and
CMP.No.16667 of 2016

Pon Mozhi

...Petitioner

versus

K.Jaisankar

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw and transfer the restitution of conjugal rights petition in HMOP No.34 of 2016 pending on the file of learned Subordinate Judge, Arni, Thiruvannamalai District to the Family Court, Vellore, Vellore District.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.J.Dev.Eshwar

ORDER

The respondent initiated proceedings in HMOP No.34 of 2016 before the Sub-Court at Arni, invoking Section 9 of Hindu Marriage Act. The petitioner, on the other hand, filed FCOP No.167 of 2016 before the Family Court at Vellore, again for restitution of conjugal rights. The petitioner has come up with this petition for transfer.

2. The learned counsel for the respondent submitted that the respondent has no objection in transferring the proceedings from Sub-Court at Arni to the Family Court at Vellore.

3. There are two proceedings now pending before two different Courts. In both the proceedings, the relief is under Section 9 of the Hindu Marriage Act. Therefore, it would be in the interest of both the parties to take up the matters by a particular Court, rather than, taking up the matters by two different Courts. Even otherwise, the respondent has no objection in withdrawing the proceedings from the file of Sub-Court, Arni to the file of Family Court, Vellore.

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. The proceedings in H.M.O.P.No.34 of 2016 is withdrawn from the file of Sub-Court, Arni and is transferred to the file of Family Court,

Vellore, for disposal along with F.C.O.P.No.167 of 2016.

6. The learned Judge, Family court, Vellore, is directed to refer the parties to mediation before taking up the matter on merits. In short, it should be the endeavour of the Trial Court to arrive at a settlement among the parties before deciding the */is*.

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

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Index:Yes/No
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To

- 1.The Sub-Court, Arni
- 2.The Family Court, Vellore

K.K.SASIDHARAN,J.

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