

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

TR.C.M.P.No.62 of 2016 &

C.M.P.No.1210 of 2016

J.Hemavathi @ Sharimila Devi

... Petitioner

Vs.

P.Vijayakumar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code praying to withdraw and transfer the case in H.M.O.P No.53 of 2015 on the file of the Sub Court, Tambaram to Sub Court, Kumbakonam.

For Petitioner : Mr.J.Kamaraj

For Respondent : Mr.K.A.Vimal Kumar

O R D E R

The learned counsel for the respondent submits that an order may be passed without insisting upon filing a formal counter. Accordingly, the submissions made by Mr.J.Kamaraj, learned counsel for the petitioner and Mr.K.A.Vimal Kumar, learned counsel for the respondent are heard.

2. The petitioner in the transfer CMP is the wife of the respondent. The respondent has filed H.M.O.P.No.53 of 2015 on the file of the Subordinate Court, Tambaram, for divorce. In the transfer CMP itself the address of the wife has been provided as "J.Hemavathi @ Sharmila Devi, W/o. Vijayakumar, D/o Jayakumar, No.59/2, 1st Street, Thiruvalluvar Nagar, Kumbakonam - 612 001." Stating personal inconvenience to come over to Tambaram to contest the case, the petitioner in the transfer CMP. has sought an order withdrawing the above said H.M.O.P. from the file of Sub Court, Tambaram and transferring the same to the file of Sub Court, Kumbakonam. After amendment in terms of Section 19(iii-a) of Hindu Marriage Act, 1955, the place of residence of the wife is also the place wherein the petition in a matrimonial case can be filed, either it be the petition by the husband or the petition by the wife. The said provision has been inserted with a view to confer the benefit on the wife. The respondent herein is not in a position to contend that for other reasons the petitioner is not entitled to the benefit of the said provision.

3.On the other hand, learned counsel for the respondent would submit that instead of Sub Court, Kumbakonam, the case may be transferred to Sub Court, Tanjore.

4.The said submission will show the ego of the respondent not to concede the prayer made by the petitioner/wife. When he is prepared to go to Tanjore from Tambaram there can be no impediment for him to go and contest the case at Kumbakonam. Hence, this Court holds that the petition is bound to be allowed. Accordingly, the transfer CMP is allowed and the H.M.O.P No.53 of 2015 on file of Sub Court, Tambaram is withdrawn and transferred to the file of Sub Court, Kumbakonam. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sub Judge, Tambaram
- 2.The Sub Judge, Kumbakonam.

+1 cc to Mr.K.A.Vimalkumar, Advocate, sr.13293

+ 1 cc to Mr.J.Kamaraj, Advocate Sr 13323 (15/3/16)

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