

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.11.2016**

CORAM:

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

Transfer CMP No.659 of 2016 and
CMP.No.17383 of 2016

M.Gowsalya

...Petitioner

versus

P.Dhanabal

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.158 of 2016 on the file of learned Sub-Court, Namakkal and to transfer the same for joint trial along with HMOP No.43 of 2016 on the file of learned Sub-Court, Sankari.

For Petitioner : Mr.N.Manokaran

For Respondent : No appearance

ORDER

The respondent initiated proceedings in HMOP No.158 of 2016 before the Sub-Court at Namakkal, invoking Section 9 of the Hindu Marriage Act. The petitioner, on the other hand, filed HMOP No.43 of 2016 before the Sub-Court at Sankari, praying for a decree of divorce. The petitioner is before this Court with a prayer to transfer HMOP No.158 of 2016 pending on the file of Sub-Court, Namakkal to the file of

Sub-Court, Sankari for joint trial.

2. 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.

3. There are two proceedings now pending before two different Courts. The proceedings for divorce initiated by the petitioner is pending before the Sub-Court at Sankari. The proceedings initiated by the respondent for restitution of conjugal rights is pending on the file of Sub-Court at Namakkal. It would be in the interest of both the parties, in case, one of such proceedings is transferred to a particular Court so as to enable the transferee Court to dispose of both the matters together.

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 petitioner is a resident of Vaikuntham in the district of Salem. The respondent is a resident of Namakkal. According to the

petitioner, it would not be possible for her to travel about 100 kms from Vaikuntham to reach the Sub-Court at Namakkal. There is nothing on record to suspect the bonafides in filing this transfer petition. I am therefore of the view that the transfer petition deserves to be allowed.

6. The proceedings in H.M.O.P.No.158 of 2016 is withdrawn from the file of Sub-Court, Namakkal and is transferred to the file of Sub-Court, Sankari, for disposal along with H.M.O.P.No.43 of 2016.

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

25.11.2016

Index:Yes/No
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To

- 1.The Sub-Court, Namakkal
- 2.The Sub-Court, Sankari

K.K.SASIDHARAN,J.

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