

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.89 of 2016 and

CMP.No.2039 of 2016

Akila ...Petitioner

versus

S.Dhayalan ...Respondent

PRAYER: Tr.C.M.P. filed under section 24 of C.P.C., to withdraw and transfer HMOP No.75 of 2014 pending before the Subordinate Court at Thiruchengode to the file of Subordinate Court at Udumalpet to be tried along with HMOP No.200 of 2014.

For Petitioner : Mr.M.Easan
For Respondent : Mr.V.Balamurugane

O R D E R

The respondent filed HMOP No.75 of 2014 before the Sub-Court, Tiruchengode praying for a decree of divorce. The petitioner on the other hand filed HMOP No.200 of 2014 under Section 9 of the Hindu Marriage Act. The proceedings are now pending before the respective courts.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. The petitioner has come up with this transfer petition on the ground that it would not be possible for her to appear before the Court at Tiruchengode for the purpose of defending the proceedings in HMOP No.75 of 2014.

4. There is nothing on record to suspect the bonafides in filing this transfer petition. Moreover, two proceedings are pending before two different Courts at present. In case, two proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter. I

am therefore of the view that the petitioner has made out a case for transfer.

5. 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.

6. In the result, the proceedings in H.M.O.P.No.75 of 2014 is withdrawn from the file of Sub-Court, Tiruchengode and is transferred to the file of Sub-Court, Udumalpet for trial along with HMOP No.200 of 2014.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Subordinate Judge, Tiruchengode
- 2.The Subordinate, Udumalpet

+1cc to Mr. V. Balamurugane, Advocate, S.R.No.55497
+1cc to Mr.M Easan, Advocate, S.R.No.55361

WEB COPY

Transfer CMP No.89 of 2016

SR(CO)
MD(24/10/2016)