

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP No.9 of 2016
and
CMP.No.177 of 2016

C.Jayashree Anusuya

...Petitioner

versus

P.Lakshmanan

...Respondent

PRAYER: Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw and transfer the petition in HMOP No.40 of 2015 on the file of Family Court, Erode to be tried along with HMOP No.154 of 2015 pending on the file of Sub-Court, Dharapuram.

For Petitioner : Mr.R.Asokan

For Respondent : Mr.S.Kaithamalai Kumaran

O R D E R

The respondent initiated proceedings in HMOP No.40 of 2015 before the Family Court at Erode, praying for a decree of divorce. The petitioner, on the other hand filed HMOP No.154 of 2015 before the Sub-Court at Dharapuram under Section 9 of the Hindu Marriage Act. The petitioner is before this Court with a request to transfer the matrimonial proceedings initiated by the respondent to the Sub-Court at Dharapuram for disposal along with HMOP No.154 of 2015.

2. The learned counsel for the respondent submitted that the respondent is a resident of Erode and in case, the matter is transferred to Dharapuram, it would cause him difficulties.

3. There are two proceedings now pending before two different Courts. The parties are same in both the matters. It is true that the respondent initiated proceedings for divorce at the first instance. However, that alone would not weigh for deciding the matter relating to transfer.

4. The petitioner is a resident of Dharapuram Taluk in the district of Tiruppur. The proceedings initiated by her is now pending before the Sub-Court at Dharapuram. In case, these 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.

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. 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.

7. The proceedings in H.M.O.P.No.40 of 2015 is withdrawn from the file of Family Court, Erode and is transferred to the file of Sub-Court, Dharapuram, for disposal along with H.M.O.P.No.154 of 2015.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

svki

To

1.The Judge,
Family Court, Erode.

2.The Subordinate Judge,
Dharapuram.

+1cc to Mr.A.K.Kumarasamy, Advocate, S.R.No.70365

Transfer CMP No.9 of 2016

KSJ (CO)
PSI (28/12/2016)