

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

Tr.C.M.P.No.99 of 2016
and C.M.P.No.2163 of 2016
and
Tr.C.M.P.No.100 of 2016
and C.M.P.No.2164 of 2016

Susila

... Petitioner
in both CRP

Vs

Narendran

... Respondent
in both CRP

Prayer in Tr.C.M.P.No.99 of 2016 : Transfer Civil Miscellaneous
Petition filed under Section 24 of C.P.C. to withdraw the
H.M.O.P.No.124 of 2015 from the file of the Court of Principal
Subordinate Judge, Tiruvannamalai and transfer the same to the
Family Court, Tiruchirappalli to try the same along with M.C.No.152
of 2015 pending on its file.

Prayer in Tr.C.M.P.No.100 of 2016 : Transfer Civil Miscellaneous
Petition filed under Section 24 of C.P.C. to withdraw the
H.M.O.P.No.50 of 2015 from the file of the Court of Principal
Subordinate Judge, Tiruvannamalai and transfer the same to the
Family Court, Tiruchirappalli to try the same along with M.C.No.152
of 2015 pending on its file.

For Petitioner : Mr.N.S.Sivakumar
in both CRP

For Respondent : Mr.K.Sathish kumar
in both CRP

C O M M O N O R D E R

Heard both sides. The petitioner in both transfer Civil
Miscellaneous Petitions is the wife and the respondent is the
husband. Both of them chose to file H.M.O.P.s on the file of the
Principal Sub Judge, Tiruvannamalai, one for restitution of
conjugal rights and the other for divorce. The wife filed
H.M.O.P.No.124 of 2015 for restitution of conjugal rights. The
husband filed H.M.O.P.No.50 of 2015 on the file of the very same
Court for divorce. The wife [petitioner in the Tr.C.M.Ps] having
chosen the jurisdiction of the Principal Sub Judge, Tiruvannamalai,

which was also the choice of the Court made by the husband in seeking divorce, has now chosen to come forward with these transfer Civil Miscellaneous Petitions seeking transfer of both the H.M.O.P.s to the Family Court, Tiruchirappalli.

2. No doubt, Section 19[iii-a] of the Hindu Marriage Act, 1955, gives a choice to the wife to file the case in the Court within whose jurisdiction she resides and when a prayer is made for transferring the case filed by the husband to the Court within whose jurisdiction the wife resides, it shall be liberally considered, considering the intention of the legislature to confer the benefit on the wife. But it shall not be stretched further to encourage unscrupulous wives to shift the residence after selecting a jurisdiction and then come forward with a petition for the transfer of the case to the place to which she has shifted her residence thereafter. If such an attempt is allowed, the beneficial provision will be a weapon of offence in the hands of the wives. The attempt made by the petitioner in the Transfer Original Petitions is also equivalent to such an attempt to harass the husband by dragging him to the Family Court, Tiruchirappalli, after having chosen to file her own H.M.O.P. in the Principal Sub Court, Tiruvannamalai.

3. This Court does not find any bona fide in the transfer Civil Miscellaneous Petitions and hence, this Court comes to the conclusion that the transfer Civil Miscellaneous Petitions are bound to be dismissed. In the result, both the transfer Civil Miscellaneous Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

The Principal Subordinate Judge,
Tiruvannamalai.

2 cc to Mr.N.S. Sivakumar, Advocate, Sr. 16127, 16128
1 cc to MS.R. Gowri, Advocate sr. 16241

Tr.C.M.P.No.99 of 2016
and C.M.P.No.2163 of 2016
and Tr.C.M.P.No.100 of 2016
and C.M.P.No.2164 of 2016

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