

Fancy Varghese Vs. Aby John Abraham

Fancy Varghese Vs. Aby John Abraham

SooperKanoon Citation : sooperkanoon.com/1012076

Court : Kerala

Decided On : Jan-08-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Fancy Varghese

Respondent : Aby John Abraham

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH TUESDAY, THE 8TH DAY OF JANUARY 2013 18TH POUSHA 193 Tr.P(C).No. 226 of 2012 () ----- OP.87/2011 of FAMILY COURT, THIRUVALLA PETITIONER(S): ----- FANCY EDAPPARA HOUSE, PATTIKAD P.O., PATTIKAD DESAM PEECHI VILLAGE, THRISSUR DISTRICT REPRESENTED BY HER POWER OF ATTORNEY HOLDER MR.EP VARGHESE, EDAPPARA HOUSE, PATTIKAD P.O., PATTIKAD DESOM PEECHI VILLAGE, THRISSUR DISTRICT. BY ADV. SRI.SYAM J SAM RESPONDENT(S): ----- ABeY JOHN ABRAHAM CHONDOTTU HOUSE, MANAKKALA DESAM, MANAKKALA ERATHU VILLAGE, ADOOR, PATHANAMTHITTA DISTRICT. THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-01-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: TR.P(C) NO.226/2012 APPENDIX PETITIONER'S EXHIBITS" ANNEXURE-A1 TRUE COPY OF PETITION IN OP NO.745/2011 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, THRISSUR ANNEXURE-A2 TRUE COPY OF PETITION IN OP

NO.748/2011 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, THRISSUR ANNEXURE-A3 TRUE COPY OF THE POWER OF ATTORNEY DATED 20 04.2011 EXECUTED BY THE PETITIONER IN FAVOUR OF HER FATHER ANNEXURE-A4 TRUE COPY OF PETITION IN OP NO.87/2011 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, THIRUVALLA
RESPONDENT'S EXHIBITS: NIL //TRUE COPY// THOMAS P. JOSEPH, J.

----- Tr.P.(C). No.226 of 2012
----- Dated this the 8th day of January, 2013. ORDER The respondent is served but, there is no response.

2. This petition is filed by the wife seeking transfer of O.P. No.87 of 2011 from the Family Court, Thiruvalla to the Family Court, Thrissur.

3. O.P. No.87 of 2011 is filed by the respondent-husband for restitution of conjugal rights.

4. It is stated that the petitioner has filed O.P.Nos.745 and 748 of 2011 in the Family Court, Thrissur for divorce and return of gold ornaments, etc. As per the address given in the petition, petitioner is residing at Pattikad, in Thrissur District. She has to travel a long distance and has to be accompanied by somebody which involves expenses.

5. The Supreme Court in Sumitha Singh v. Kumar Sanjay and another (AIR 200.SC

396) and Arti Rani v. Dharmendra Kumar Gupta [(2008) 9 SCC 353.has held that while considering the request for transfer of matrimonial proceedings convenience of the wife has to be looked into. Tr.P(C) No.226/201

6. Moreover, two cases filed by the petitioner are pending in the Family Court, Thrissur. It is appropriate that all the cases are tried and disposed of by the same court.

7. Having regard to the circumstances stated before me I am inclined to think that comparative hardship is more on the petitioner if the request for transfer is not

allowed. The inconvenience that may be caused to the respondent could be reduced by directing that he could appear in the Family Court, Thrissur through counsel except when his physical presence is required. I am inclined to allow the request for transfer. Resultantly this petition is allowed as follows: (i) O.P. No.87 of 2011 pending in the Family Court, Thiruvalla is withdrawn from that court and made over to the Family Court, Thrissur for trial and disposal. (ii) The transferor court while transmitting records of the case to the transferee court shall fix the date for appearance of the parties in the transferee court with due intimation to the counsel on both sides. (iii) The transferee court shall post the cases - O.P. No.87 of 2011 (being transferred to that court) and O.P.Nos.745 and 748 of 2011 (pending in that court), as far as possible on the same dates. Tr.P(C) No.226/2012 3 (iv) The respondent can appear in the transferee court through counsel except when his physical presence is required. I.A.No.1209 of 2012 will stand dismissed. THOMAS P.JOSEPH, Judge. cks

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com