

Jisna vs Jamshad

Jisna vs Jamshad

SooperKanoon Citation : sooperkanoon.com/1330818

Court : Kerala

Decided On : Mar-22-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/12/2023

Appellant : JISNA

Respondent : Jamshad

Judgement :

TR.P(C) NO. 12 OF 2023 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY, THE 22ND DAY OF MARCH 2023 / 1ST CHAITHRA, 1945 TR.P(C) NO. 12 OF 2023 OP 777/2022 OF FAMILY COURT, MALAPPURAM PETITIONER/S: JISNA AGED 19 YEARS "KALAPARAMBIL HOUSE", VADAKUMBARAM, MURKANADU PO, PERINTHALMANNA, MALAPPURAM-, PIN - 679338 BY ADVS. SHARAN SHAHIER S.MOHAMMED FEBIN RAKHY BABY SONY SOLOMON RESPONDENT/S: JAMSHAD "VELERI HOUSE", PIANGANNUR PO, TIRUR-, PIN - 679571 THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.03.2023, THE COURT ON THE

ORDER

The transfer petition is filed under Section 24 of the Code of Civil Procedure, 1908 (in short, 'C.P.C.'), seeking to transfer O.P.No.777/2022 (Annexure-3) from the Family Court, Tirur, to the Family Court, Malappuram.

2. The petitioners case, in brief, in the

memorandum of transfer petition, is that, she is the wife of the respondent. They have a child born in the wedlock. The marital relationship is strained. The respondent has refused to maintain the petitioner and the child. The petitioner has filed O.P.(Gold) No.1301/2022 (Annexure-1) and M.C.No.511/2022 (Annexure-2) before the Family Court, Malappuram, against the respondent. The respondent has also filed O.P (G&W) No.947/2022 before the same court, against the petitioner, seeking custody and visitation rights of the child. As Annexures-1 and 2 are pending before the Family Court, Malappuram, no inconvenience would be

TR.P(C) NO. 12 OF 2023 3 caused to the respondent in Annexure-3 being transferred. Hence, the transfer petition.

3. Heard; Sri.Sharan Shahier, the learned counsel appearing for the petitioner. Even though notice has been served on the respondent, there is no appearance for him.

4. It is well settled in a catena of decisions by the

Honble Supreme Court in Sumitha Sing v. Kumar Sanjay and another [(2001)10 SCC 41], Mona Aresh Goel v. Aresh Satya Goel [(2000) 9 SCC 255], Vaishali Shridhar Jagtap v. Shridhar Vishwanath Jagtap [AIR 2016 SC 3584], Santhini v. Vijaya Venkatesh [2017 (4) KLT 415 (SC)], N.C.V. Aiswarya v. A.S. Sharavana Karthik Sha[2022(5) KHC 185] and

Valsal Nisha v. Rajesh Soman Nair [2020(8) KLR 475], that the convenience of the woman and children has to be given preference, while ordering the transfer of a case from one Court to another.

5. In the light of the law laid down in the afore-cited TR.P(C) NO. 12 OF 2023 4

decisions, the uncontroverted pleadings and materials on record and the totality of the facts and circumstances of the case, particularly the fact that Annexures-1 and 2 and O.P (G&W) No.947/2022 are pending before the Family Court, Malappuram, and that the petitioner and her minor child are residing within the jurisdiction of the Family Court, Malappuram, I am inclined to exercise the discretionary powers of this Court under Section 24 of the C.P.C. and order the transfer of Annexure-3, so that the cases can be consolidated and jointly tried, which would save the precious judicial time and avoid conflict of decisions. In the result, I allow the transfer petition as follows:

(i) O.P.No.777/2022 is transferred from the Family Court, Tirur, to the Family Court, Malappuram.

(ii) The parties will be at liberty to move the Family Court, Malappuram and seek for the consolidation and joint trial of all the cases between them.

(iii) The Registry shall forward a copy of this order

TR.P(C) NO. 12 OF 2023 5 to the Family Court, Tirur, with instructions to forthwith transmit the records in Annexure-3 to the Family Court, Malappuram.

(iv) The Family Court, Malappuram shall, immediately

on receipt of the records in Annexure-3, post the case along with connected cases. Sd/- C.S.DIAS, JUDGE okb/22.3.23 //True copy// P.S. to Judge TR.P(C) NO. 12 OF 2023 6 APPENDIX OF TR.P(C) 12/2023 PETITIONER ANNEXURES Annexure 1 A TRUE COPY OF OP(GOLD) 1301/2022 FILED BY THE PETITIONER BEFORE FAMILY COURT, MALAPPURAM. Annexure 2 A TRUE

COPY OF MC 511/2022 FILED BY THE PETITIONER BEFORE FAMILY COURT,
MALAPPURAM Annexure 3 A TRUE COPY OF THE OP 777/2022 FILED BY THE
RESPONDENT BEFORE THE FAMILY COURT, TIRUR

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