

Sheeba Alex vs Dr.Shaji Alex

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Court : Kerala

Decided On : Jan-03-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/396/2021

Appellant : Sheeba Alex

Respondent : Dr.Shaji Alex

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 3RD DAY OF JANUARY 2023 / 13TH POUSHA, 1944 TR.P(C) NO. 396 OF 2021 OS 1549/2018 OF PRINCIPAL MUNSIF COURT ,TRIVANDRUM PETITIONERS: 1 SHEEBA ALEX AGED 52 YEARS D/O.P.K.ALEXANDER, RESIDING AT URA 73, KIZHAKKEVILAYIL, 2 JOHNSON GEORGE AGED 56 YEARS S/O.K.M.GEORGE, RESIDING AT URA 73, KIZHAKKEVILAYIL, BY ADV A.JANI(KOLLAM) RESPONDENTS:

1 DR.SHAJI ALEX AGED 46 YEARS RESIDING AT URA 73, KIZHAKKEVILAYIL, UDIYANOOR, NALANCHIRA P.O., THIRUVANANTHAPURAM DISTRICT, 2 SHEELA ALEX AGED 51

YEARS D/O.P.K.ALEXANDER, RESIDING AT URA 73, KIZHAKKEVILAYIL, 3 AJITH JACOB GEORGE AGED 51 YEARS S/O.P.M.BABY, RESIDING AT KURUMKATTIL, TC 8/739, GOWRI NAGAR, PONGUMOODU, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM, PIN - 695 011.

TR.P(C) NO. 396 OF 2021 2 BY ADV R.V.SREEJITH THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: TR.P(C) NO. 396 OF 2021 3

ORDER

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, to transfer O.S. No.1549/2018 (Annexure A1) from the Court of the Munsiff, Thiruvananthapuram to the Court of the Munsiff, Kollam.

2. The petitioners case, in brief, in the

memorandum of transfer petition is that, they are the defendants in Annexure A1 suit, which is filed for a decree of partition. The first respondent has filed O.S. No.12/2019 (Annexure A2), against the petitioner and others for an identical relief. As the subject matter in dispute pertains to the partition of the properties of late P.K.Alexander, it will only be just and convenient that both the suits be tried by the same court. Hence, the transfer petition.

3. Heard; Sri.Jani A., the learned counsel appearing for the petitioners and Sri. R.V. Sreejith, the learned TR.P(C) NO. 396 OF 2021 4 counsel appearing for the respondents 2 and 3.

4. On a consideration of the pleadings and materials

on record and taking note of the fact that Annexures A1 and A2 are the suits filed for partition in respect of the property of late P.K.Alexander, I am of the firm view that both the suits have to be tried by the same court, so that it would avoid multiplicity of proceedings, conflict of decisions and save precious judicial time.

Thus, I am inclined to exercise the discretionary powers of this Court

under Section 24 of the Code of Civil Procedure and order

the transfer of Annexure A1 from the Court of the Munsiff, Thiruvananthapuram to the Court of the Munsiff, Kollam. In the result, I allow the transfer petition as follows:-

(i) O.S.No.1549/2018 is transferred from the Court the Munsiff, Thiruvananthapuram to the Court of the Munsiff, Kollam.

(ii) The parties would be at liberty to move the Court of the Munsiff, Kollam and seek for the consolidation and TR.P(C) NO. 396 OF 2021 5 joint trial of both the suits between them.

(iii) The Registry shall forward a copy of this order to the Court of the Munsiff, Thiruvananthapuram with instructions to forthwith transmit the records in Annexure A1 to the Court of the Munsiff, Kollam.

(iv) The Court of the Munsiff, Kollam shall,

immediately on the receipt of the records in Annexure A1 post the case along with Annexure A2. Sd/- C.S.DIAS, JUDGE rmm/03.01.2023 TR.P(C) NO. 396 OF 2021 6 APPENDIX OF TR.P(C) 396/2021 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF PLAINT IN O.S.NO.1549 OF 2018 PENDING BEFORE MUNSIFF COURT, THIRUVANANTHAPURAM AGAINST THE PETITIONERS & RESPONDENTS 2 & 3. Annexure A2 TRUE COPY OF PLAINT IN O.S.NO.12 OF 2019 PENDING BEFORE MUNSIFF COURT, KOLLAM AGAINST THE PETITIONERS & RESPONDENTS 2 & 3.

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