

Deepthi Joseph vs Jis George

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Court : Kerala

Decided On : Jan-03-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/612/2022

Appellant : Deepthi Joseph

Respondent : Jis George

Judgement :

TR.P(C) NO.612 OF 2022 1

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. 612 OF 2022 OPDIV 592/2018 OF FAMILY COURT, PATHANAMTHITTA PETITIONER/S: DEEPTHI JOSEPH AGED 43 YEARS CARAPOIKA, KAITHAKODY MURI, PERINADU VILLAGE, VELLIMON PO, KOLLAM, PIN - 686501 BY ADVS. E.M.MURUGAN SUJAY SANKAR RESPONDENT/S: JIS GEORGE AGED 43 YEARS PADINJATTUKARAYIL HOUSE, KULATHINAL KOSIPADI, KODUMON MURI, KODUMON VILLAGE, KODUMON EAST PO, ADOOR THALUK, PATHANAMTHITTA, PIN - 691555 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.612 OF 2022 2

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.(DIV)No.592/2018 (Annexure-A1) from the Family Court, Pathanamthitta, to the Family Court, Kollam.

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 petitioner has filed Annexure-A1 before the Family Court, Pathanamthitta, against the respondent seeking a decree of divorce. The petitioner is currently employed at Infosys, Thiruvananthapuram, and is residing with her parents in Kollam. Thereafter, the petitioner has filed O.P.No.1682/2019 (Annexure-A3) before the Family Court, Kollam, against the respondent to declare her as the guardian and grant her permanent custody of the child. The respondent is contesting Annexure-A3 before the Family Court,

TR.P(C) NO.612 OF 2022 3 Kollam. Therefore, no inconvenience would be caused to the respondent in Annexure-A1 being transferred. An earlier case as M.C. No.117/2018 (Annexure-A2) between the parties was allowed by the Family Court, Pathanamthitta. Hence, the transfer petition.

3. Heard; Sri.E.M.Murugan, 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

TR.P(C) NO.612 OF 2022 4 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

decisions, the uncontroverted pleadings and materials on record and the totality of the facts and circumstances of the case, particularly the fact that Annexure-A3 is already pending before the Family Court, Kollam, and that the respondent is contesting the proceedings before the said court and that the petitioner and her child are the permanent residents of Kollam, 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-A1 to the Family Court, Kollam, so that the cases can be consolidated and jointly tried, which would save the precious judicial time, avoid conflict of decisions and multiplicity of proceedings. In the result, I allow the transfer petition as follows:

(i) O.P.(DIV) No.592/2018 is transferred from the Family Court, Pathanamthitta, to the Family Court, Kollam. TR.P(C) NO.612 OF 2022 5

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

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

to the Family Court, Pathanamthitta, with instructions to forthwith transmit the records in Annexure-A1 to the Family Court, Kollam.

(iv) The Family Court, Kollam shall, immediately on receipt of the records in Annexure-A1, post the case along with Annexure-A3. Sd/- C.S.DIAS, JUDGE
okb/3.1.2023 //True copy// P.S. to Judge TR.P(C) NO.612 OF 2022 6 APPENDIX
OF TR.P(C) 612/2022 PETITIONER ANNEXURES

Annexure a1 COPY OF O.P(DIVORCE) NO; 592/18Annexure A2

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