

Mini.R. vs V.S.Sreekumar

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Court : Kerala

Decided On : Jan-04-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/667/2022

Appellant : MINI.R.

Respondent : V.S.Sreekumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY, THE 4TH DAY OF JANUARY 2023 / 14TH POUSHA, 1944 TR.P(C) NO. 667 OF 2022 IN OP 1164/2021 OF FAMILY COURT, NEDUMANGAD PETITIONER: MINI.R., AGED 45 YEARS, W/O SREEKUMAR, SREEPATHAM, KRA 2B, KERALA NAGAR, NETTAYAM P.O., THIRUVANANTHAPURAM -, MENTALLY UNSOUND PERSON, HENCE REPRESENTED BY HER FATHER AND NATURAL GUARDIAN, P. RAJENDRAN NAIR, AGED 76 YEARS, ARCHANA, KOTTAKKIPPURAM, KLAPPANA P.O., KARUNAGAPPALLY, KOLLAM, PIN - 695013 BY ADVS. LATHEESH SEBASTIAN SHAILA RANI S.B. RESPONDENT: V.S.SREEKUMAR AGED 55 YEARS S/O SANKARA

PILLAI, SREEPATHAM, KRA 28, KERALA NAGAR, NETTAYAM P.O.,
THIRUVANANTHAPURAM -695013 PRESENTLY WORKING AS
ARTIST-CUM-PHOTOGRAPHER AND TECHNICAL OFFICER, CTCRL,
GOVERNMENT OF INDIA, SREEKARYAM P.O.,
THIRUVANANTHAPURAM , PIN - 695017 THIS TRANSFER PETITION
(CIVIL) HAVING COME UP FOR ADMISSION ON 04.01.2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:-
Dated this the 4th day of January, 2023

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.1164/2021 (Annexure-1), from the Family Court, Nedumangad to the Family Court, Chavara.

2. The petitioners case, in brief, in the

memorandum of transfer petition is that, she is the wife of the respondent. The petitioner is suffering from unsoundness of mind. She is represented by her next friend. The marital relationship is strained. The respondent has filed Annexure-1, for a decree of divorce. The petitioner was undergoing treatment at the Mental Health Hospital, Peroorkada. Subsequently, she is residing in her parental home in Karunagappally within the jurisdiction of the Family Court, Chavara. On account of her treatment, it would be difficult for -:3:- her to travel from Nedumangad to contest Annexure-1. The petitioners parents are senior citizens. There is no person to chaperone the petitioner from Karunagappally to Nedumangad, to contest Annexure-1. Hence, the transfer petition.

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

4. The law with respect to transfer of

proceedings, particularly matrimonial disputes, is no longer res integra, in view of the categorical declaration of law by the Hon'ble 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. -:4:- Aiswarya v. A.S. Sharavana Karthik Sha[2022(5) KHC 185] and Valsal Nisha v. Rajesh Soman Nair [2020(8) KLR 475]. The Hon'ble Supreme Court has

held that it is the convenience of the woman and

children that has to be looked into, 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 totality of the facts and circumstances of the case, particularly the fact that the the petitioner is undergoing treatment for her mental illness and she is residing at Karunagappally, I am inclined to exercise the discretionary powers of this Court under Section 24 of the C.P.C. and order the transfer of the Annexure-1.

In the result, I pass the following directions:

(i) The transfer petition is allowed, by ordering the transfer of O.P.No.1164/2021 from the Family Court, Nedumangad to the Family Court, Chavara. -:5:-

(ii) The Registry shall forthwith forward a copy of the order to the Family Court, Nedumangad with instructions to transmit the records in Annexure-1 to the Family Court, Chavara.

(iii) The Family Court, Chavara shall, immediately

on receipt of the records in Annexure-1, issue notice to the parties for their appearance. Sd/- C.S.DIAS,JUDGE DST/04.01.23 //True copy/ P.A.To Judge -:6:-

APPENDIX PETITIONER ANNEXURES ANNEXURE 1 TRUE COPY OF THE PETITION IN O.P.NO.1164/2021 OF FAMILY COURT, NEDUMANGAD

ANNEXURE2 TRUE COPY OF THE ORDER OF THIS HON'BLE COURT DATED 12.04.2022 IN W.P.(C) NO.13841/2022 ANNEXURE3 TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN TR.P(C) NO.417/2022 DATED 14.07.2022 RESPONDENT ANNEXURES: NIL

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