

Princy vs Gireesh

Princy vs Gireesh

SooperKanoon Citation : sooperkanoon.com/1406872

Court : Kerala

Decided On : Mar-27-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/794/2022

Appellant : Princy

Respondent : Gireesh

Judgement :

TR.P(C) NO. 794 OF 2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 27TH DAY OF MARCH 2023 / 6TH CHAITHRA, 1945 TR.P(C) NO. 794 OF 2022 OP 1126/2022 OF FAMILY COURT, PALAKKAD PETITIONER/S: PRINCY AGED 33 YEARS D/O VELAYUDHAN, KALATHINGALTHODI HOUSE, MAKKARAPARAMBU, MANKADA P.O, VADAKKANGARA VILLAGE, PERINTHALMANNA TALUK, MALAPPURAM DISTRICT, PIN - 679324, PIN - 679324 BY ADVS. T.P.PRADEEP P.K.SATHEES KUMAR MINIKUMARY M.V. R.K.PRASANTH JIJO JOSEPH RESPONDENT/S: GIREESH 33 YEARS, S/O KERALA VARMA, MULAKKAL KOVILAKAM HOUSE,

MANIKKASSERI P.O, KONGAD-I VLLAGE, PALAKKAD TALUK,
PALAKKAD DISTRICT, 678631, PIN - 678631 BY ADVS. ABHILASH
K.N. SUNIL NAIR PALAKKAT(K/1049/1999) RITHIK
S.ANAND(K/001899/2021) ANU PAUL(K/002201/2021) SREELAKSHMI
MENON P.(K/001252/2022) T.R.ANIL VENUGOPAL(A-642) THIS
TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27.03.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: TR.P(C) NO. 794 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.No.1126/2022 (Annexure-1), from the Family Court, Palakkad 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 are issueless. The marital relationship is strained. The respondent has refused to maintain the petitioner. The petitioner is residing in her parental home in Malappuram district. The petitioner has filed M.C.No.491/2022 (Annexure-2) before the Family Court, Malappuram, against the respondent, seeking an order of maintenance. The respondent is contesting Annexure-2 before the Family Court, Malappuram. Therefore, no inconvenience would be caused to the respondent in Annexure-1 being transferred. Hence, the transfer petition.

3. Heard; Sri. T.P.Pradeep, the learned counsel appearing for the petitioner and Sri.K.N. Abhilash, the TR.P(C) NO. 794 OF 2022 3 learned counsel appearing for the respondent.

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

decisions, the uncontroverted pleadings and materials on record and the totality of the facts and circumstances of the case, particularly the fact that Annexure-2 is already pending before the Family Court, Malappuram, and that the respondent is contesting the proceeding before the said court, I am inclined to exercise the TR.P(C) NO. 794 OF 2022 4 discretionary powers of this Court under Section 24 of the C.P.C. and order the transfer of Annexure-1, 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.No.1126/2022 is transferred from the Family Court, Palakkad, 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

to the Family Court, Palakkad with instructions to forthwith transmit the records in Annexure-1 to the Family Court, Malappuram.

(iv) The Family Court, Malappuram shall, immediately

on receipt of the records in Annexure-1, post the case along with Annexure-2. Sd/- C.S.DIAS, JUDGE okb/27.3.23 //True copy// P.S. to Judge TR.P(C) NO. 794 OF 2022 5 APPENDIX OF TR.P(C) 794/2022 PETITIONER ANNEXURES Annexure1 A TRUE COPY OF THE O.P. NO. 1126/2022 ON THE FILES OF FAMILY COURT, PALAKKAD Annexure-2 A TRUE COPY OF THE MC NO. 491/2022 ON THE FILES OF FAMILY COURT, MALAPPURAM