

Smitha N V vs Prasad K.B.

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Court : Kerala

Decided On : Jul-06-2022

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/6/2022

Appellant : Smitha N V

Respondent : Prasad K.B.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY, THE 6TH DAY OF JULY 2022 / 15TH ASHADHA, 1944 TR.P(C) NO. 6 OF 2022 IN OP NO.176/2020 OF THE FAMILY COURT, MUVATTUPUZHA PETITIONER: SMITHA N V D/O VISWANADHAN, W/O PRASAD, AGED 42 YEARS, NADUVATHUMURI HOUSE, PUNNAYAM KARA, THURUTHI, KUNNATHUNADU TALUK, ERNAKULAM DIST, NOW RESIDING AT C/O VIJAYACHANDRAN, REMYA NIVAS, ETTUMANOOR, KOTTAYAM-686 583. KOTTAYAM, PIN - 686583 BY ADV M.J.SANTHOSH RESPONDENT: PRASAD K.B. AGED 47 YEARS S/O BHASKARAN, PUTHANTHARAYIL HOUSE, KULASEGARAMANGALAM VILLAGE, VAIKAM TALUK, KOTTAYAM-

686 608, PIN - 686608 THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06.07.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: TR.P(C) NO.6 OF 2022 2

ORDER

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, seeking to transfer O.P No.176/2020 from the Family Court, Muvattupuzha to the Family Court, Ettumanoor.

2. The petitioners case, in brief, in the memorandum of transfer petition is that, she is the wife of the respondent. The petitioner has instituted O.P. No.176/2020 before the Family Court, Muvattupuzha, seeking a decree for recovery of money and gold ornaments from the respondent. The respondent has now filed O.P.(Div) No.356/2020 before the Family Court, Ettumanoor. The petitioner is now employed in

Ettumanoor. She is staying as a paying guest in Ettumanoor. Therefore, it would be convenient to her, if O.P. No.176/2020 is also transferred from the Family Court, Muvattupuzha to the Family Court, Ettumanoor, so TR.P(C) NO.6 OF 2022 3 that the case can be consolidated and jointly tried along with O.P.(Div) No.356/2020. Hence, the transfer petition.

3. Heard; M.J. Santhosh, 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 [2002 KHC 1889], Mona Aresh Goel V. Aresh Satya Goel [2000 KHC 1835], Vaishali Shridhar Jagtap V. Shridhar Vishwanath Jagtap [2016 KHC 6489] and Santhini V. Vijaya Venkatesh [2017 (5) KHC 48]. The Honble 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 TR.P(C) NO.6 OF 2022 4 cited decisions, the uncontroverted pleadings and

materials on record, the totality of the facts and circumstances of the case, especially the fact that the petitioner herself is seeking for the transfer of O.P. No.176/2020 from the Family Court, Muvattupuzha to the Family Court, Ettumanoor, so that the cases can be

consolidated and jointly tried along with O.P.(Div) No.356/2020 filed by the respondent, 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 O.P.No.176/2020 from the Family Court, Muvattupuzha to the Family Court, Ettumanoor, so that the cases can be consolidated and jointly tried, which would save precious judicial time and avoid conflict of decisions.

In the result, I allow the transfer petition as follows:-

(i) O.P No.176/2020 is transferred from the Family Court, Muvattupuzha to the Family Court, Ettumanoor. TR.P(C) NO.6 OF 2022 5

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

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

to the Family Court, Muvattupuzha with instructions to forthwith transmit the records in O.P. No.176/2020 to the Family Court, Ettumanoor.

(iv) The Family Court, Ettumanoor shall, immediately on the receipt of the records in O.P. No.176/2020, post the case along with O.P.(Div.) No.356/2020. Sd/- C.S.DIAS, JUDGE rmm/06/07/2022

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