

Vasanthi vs R.Prasannan

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Court : Kerala

Decided On : Jun-21-2022

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/14/2022

Appellant : Vasanthi

Respondent : R.Prasannan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 21ST DAY OF JUNE 2022 / 31ST JYAISHTA, 1944 TR.P(C) NO. 14 OF 2022 TO TRANSFER OP(HMA)NO. 1432/2021 OF FAMILY COURT, ETTUMANOOR TO THE FAMILY COURT, THIRUVANANTHAPURAM PETITIONER: VASANTHI AGED 58 YEARS W/O.PRASANNAN, MOLATHUKUDIYIL HOUSE, ADIMALY P.O., ADIMALY, DEVIKULAM TALUK, IDUKKI, NOW RESIDING IN FLAT NO.2D, BHASKARAN, MOHANAVILAS, VIZHVOOR, MALAYAM P.O., THIRUVANANTHAPURAM. BY ADV ANIL KUMAR M.SIVARAMAN RESPONDENT: R.PRASANNAN S/O.RAMAN, DEVIKA HOUSE, SOUTH GATE P.O., NADUVILE VILLAGE, VAIKOM,

KOTTAYAM - 686 141. BY ADVS. M.BALAGOVINDAN A.ANOOP THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Dated this the 21st day of June, 2022.

ORDER

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, seeking to transfer O.P.(HMA) No.1432/2021 (Annexure A1) from the Family Court, Ettumanoor to the Family Court, Thiruvananthapuram.

2. The petitioners case, in brief, in the

memorandum of transfer petition is that, she is the wife of the respondent. They have two children born in their wedlock. Due to the matrimonial cruelty meted out to her, the petitioner and her children are residing in her parental home in Thiruvananthapuram. There was an earlier litigation between the parties, which was filed

before the Family Court, Ettumanoor as O.P. No.994/2012. However, the respondent withdrew the said proceeding. Now, the petitioner has filed O.P. No. Thiruvananthapuram, seeking a decree for patrimony and ancillary reliefs. The respondent has now filed Annexure 1 before the Family Court, Ettumanoor. The petitioner and the children are residing in Thiruvananthapuram. There is no person to chaperone them from Thiruvananthapuram to Ettumanoor. The respondent is appearing before the Family Court, Thiruvananthapuram to contest O.P. No.448/2022. Hence, no prejudice would be caused to him by the transfer of O.P(HMA) No.1432/2021 from the Family Court, Ettumanoor to the Family Court, Thiruvananthapuram. Hence, the transfer petition.

3. Heard; Sri.Anil Kumar, the learned counsel appearing for the petitioner and Sri. M. Balagovindan, the learned counsel appearing for the respondent.

4. The learned counsel appearing for the respondent submitted that the respondent has no objection in allowing the transfer petition.

5. 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.

6. In the light of the law laid down by the afore-

cited decisions, the uncontroverted pleadings and materials on record, the totality of the facts and circumstances of the case, particularly the fact that the O.P. No.448/22 is pending before the Family Court, Thiruvananthapuram, 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. (HMA)No.1432/2021, 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 by ordering the transfer of O.P (HMA)No.1432/2021 from the Family Court, Ettumanoor to the Family Court, Thiruvananthapuram. The parties would be at liberty to seek for consolidation and joint trial of all the cases between them. The Registry shall forward a copy of this judgment to the Family Court, Ettumanoor with instructions to forthwith transmit the records in O.P

(HMA) No.1432/2021 to the Family Court,

Thiruvananthapuram. The Family Court, Thiruvananthapuram shall, immediately on the receipt of the records in the above case, post the case along with O.P. No.448/2022. SD/- C.S.DIAS, JUDGE rmm/21/06/2022 APPENDIX OF TR.P(C) 14/2022 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE O.P.(HMA) NO.1432/2021 FILED BY THE RESPONDENT BEFORE THE FILE OF FAMILY COURT, ETTUMANOOR.