

Sreedevi vs Revathy Reghunath

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Court : Kerala

Decided On : Sep-19-2022

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/46/2022

Appellant : Sreedevi

Respondent : Revathy Reghunath

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 19TH DAY OF SEPTEMBER 2022 / 28TH BHADRA, 1944 TR.P(C) NO. 46 OF 2022 IN OP(RM) 217/2021 OF FAMILY COURT, THODUPUZHA PETITIONERS/RESPONDENT NO.2&3:

1 SREEDEVI, AGED 58 YEARS, W/O. GOPALAKRISHNAN, KUNNUMPURATHE HOUSE, KEEZHAMBARA KARA, CHITTANAPPARA, MELAMBARA P.O, PALA - 686578. NOW RESIDING AT KUNNUMPURATHE HOUSE, ELAMKULAM KARA, KOORALI P.O, KOTTAYAM - 686522. 2 GOPALAKRISHNAN NAIR, AGED 60 YEARS, S/O.JANARDANAN NAIR, KUNNUMPURATHE

HOUSE, KEEZHAMBARA KARA, CHITTANAPPARA, MELAMBARA P.O, PALA - 686578. NOW RESIDING AT KUNNUMPURATHE HOUSE, ELAMKULAM KARA, KOORALI P.O, KOTTAYAM - 686522. BY ADVS. P.BABU KUMAR P.YADHU KUMAR

RESPONDENTS/ PETITIONER/ RESPONDENT NO.1:

1 REVATHY REGHUNATH D/O. REGHUNATH, AISWARYA NIVAS, KAAP KARA, MADAKKATHANAM P.O, MUVATTUPUZHA TALUK, ERNAKULAM - PIN - 686104. 2 HARIKRISHNAN K.G. AGED 32 YEARS S/O. GOPALAKRISHNAN, KUNNUMPURATHE HOUSE, KEEZHAMBARA KARA, MELAMBARA P.O, PALA - 686578. NOW RESIDING AT KUNNUMPURATHE HOUSE, ELAMKULAM KARA, KOORALI P.O, KOTTAYAM - 686522. BY ADV SREELAL N.WARRIER THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR

ADMISSION ON 19.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:- Dated this the 19th day of September,2022

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.217/2021 (Annexure-2), from the Family Court, Thodupuzha to the Family Court, Pala.

2. The petitioners case, in brief, in the memorandum of transfer petition is that, the petitioners are the parents of the second respondent. The first respondent is the wife of the second respondent. The second respondent is employed abroad. The marital relationship is strained. The first respondent has filed (Annexure-A1) against the petitioners and the second respondent seeking a decree for recovery of money and other ancillary reliefs. The first respondent has also filed M.C.No.48/2020 before the same court against the -:3:-

second respondent, seeking an order of maintenance. The second respondent has filed O.P.No.280/2021 (Annexure-A1) before the Family Court, Pala, against the

first respondent, seeking a decree of divorce. The petitioners are old and infirm. They are suffering from various illnesses. It would be difficult for them to contest Annexure-A2 before the Family Court, Thodupuzha. Hence, the transfer petition.

3. Heard; Sri. P.Babu Kumar, the learned counsel

appearing for the petitioners and Sri.Sreelal N.Warrier, the learned counsel appearing for the first respondent. In view of the fact that the second respondent is the son of the petitioners, I dispense with notice to him.

4. Undisputedly, the dispute between the petitioners and respondents arise out of the marital relationship between the first respondent and the second respondent. The second respondent is employed abroad. The first respondent has filed -:4:- M.C.No.48/2020 before the Family Court, Thodupuzha. The second respondent is contesting the proceeding there. The main ground for seeking transfer is the

ill-health of the petitioners. As the dispute is principally between the respondents, I am of the firm view that the personal appearance of the petitioners can be dispensed with.

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

-:5:- 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

second respondent is contesting M.C.No.48/2020 before the Family Court, Thodupuzha, I am not inclined to exercise the discretionary powers of this Court

under Section 24 of the C.P.C. and order the transfer of Annexure-A2. In the result, I dispose of the transfer petition as follows:

(i) The request of the petitioners to transfer O.P.No.217/2021 from the Family Court, Thodupuzha to the Family Court, Pala, is declined.

(ii) Taking into consideration the ill-health and age of the petitioners, their personal appearance before the Family Court is dispensed with. -:6:-

(iii) The second respondent would be at liberty to

move the Family Court, Thodupuzha, and seek for the video conferencing facility.

Sd/- C.S.DIAS,JUDGE DST/19.09.22 //True copy/ P.A.To Judge -:7:- APPENDIX
PETITIONER ANNEXURES ANNEXURE A1 TRUE COPY OF OP(DIV)
NO.280/2021 BEFORE THE FAMILY COURT AT PALA DATED 01.07.2021.
ANNEXURE A2 TRUE COPY OF OP(RM) NO.217/2021 BEFORE THE FAMILY
COURT AT THODUPUZHA, DATED 22.07.2021. ANNEXURE A3 TRUE COPY
OF MEDICAL CERTIFICATE OF 1ST PETITIONER ISSUED BY DR.JOY
FRANCIS DATED 12.01.2022. ANNEXURE A4 TRUE COPY OF MEDICAL
REPORT ISSUED BY DEPARTMENT OF NEURO SURGERY AND SPINE
SURGERY, MAR SLEEVA MEDICITY, PALA. RESPONDENT ANNEXURES: NIL

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