

Vanaja vs Muralidharan

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Court : Kerala

Decided On : Jun-03-2022

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/86/2022

Appellant : Vanaja

Respondent : Muralidharan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 3RD DAY OF JUNE 2022 / 13TH JYAISHTA, 1944 IN OP 1001/2021 OF FAMILY COURT, PALAKKD PETITIONER/S: VANAJA AGED 41 YEARS DAUGHTER OF MURALIDHARAN, VANAJA VILLA, DURGA NAGAR, PERUMUDIYOOR POST, PATTAMBI TALUK, PALAKKAD DISTRICT, PIN - 679303 BY ADV R.SREEHARI RESPONDENT/S: MURALIDHARAN AGED 55 YEARS SON OF SIVASANKARAN NAIR, KANNATH VEETIL, MUDAPALLUR AMSOM DESOM AND POST, ALATHUR TALUK, PALAKKAD DISTRICT, PIN - 678705 BY ADV V.A.JOHNSON (VARIKKAPPALLIL) THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.06.2022, THE

COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The transfer petition is filed under Section 24 of the Code of Civil Procedure, seeking to transfer O.P.No.1001/2021 (Annexure-1) from the Family Court, Palakkad to the Family Court, Ottappalam.

2. The petitioner's case, in brief, in the memorandum

of transfer petition is that; she is the wife of the respondent. They have two daughters born in their wedlock, who are aged 13 and 5 years. The respondent has filed Annexure-1, seeking a decree for divorce. The petitioner and children would find difficult to travel from Pattambi to Palakkad to contest Annexure-1, as there is no person to chaperone them. On the other hand, it would be easy for the respondent to travel to the Family Court, Ottappalam. Hence, the transfer petition.

3. Heard; the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

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] and Santhini V. Vijaya Venkatesh [2017 (4) KLT 415 (SC)].

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 uncontroverted averments in the

transfer petition, the totality of the facts and circumstances of the case, particularly the fact that the petitioner has two daughters and they are residing at Pattambi, and the law laid down by the Hon'ble Supreme Court in the afore-cited decisions, I

am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure.

In the result, I allow the transfer petition by ordering transfer of O.P.No.1001/2021 from the Family Court,

Palakkad to the Family Court, Ottappalam. The Registry shall forward a copy of this judgment to the Family Court, Palakkad with instructions to forthwith transmit the records in Annexure-1 to the Family Court, Ottappalam. The Family Court, Ottappalam shall, immediately on receipt of the records in O.P.No.1001/2021, issue notice to the parties for their appearance.

Sd/- C.S.DIAS, JUDGE rkc/03.06.22 APPENDIX OF TR.P(C) 86/2022
PETITIONER ANNEXURES Annexure 1 PHOTO COPY OF THE PETITION
FILED IN O.P.NO.1001/2021, ON THE FILE OF THE FAMILY
COURT,PALAKAKD

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