

Riswana vs Manaf

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Court : Kerala

Decided On : Oct-28-2022

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/154/2020

Appellant : Riswana

Respondent : MANAF

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 28TH DAY OF OCTOBER 2022 / 6TH KARTHIKA, 1944 TO TRANSFER OP(RESTITUTION) 274/2019 OF FAMILY COURT, KATTAPPANA PETITIONER/S: RISWANA AGED 20 YEARS D/O.SALIM ABDUL RAHMAN, SALIHA MANZIL, VATTAPPALLY.P.O, ZACHARIA BAZAR, AMBALAPUZHA TALUK, ALAPPUZHA DISTRICT, PIN-688001 BY ADVS. E.RAFEEL SRI.GOKUL DAS V.V.H. RESPONDENT/S: MANAF AGED 28 YEARS S/O.MEHABUB, PUTHENKATTUNKAL HOUSE, KANCHIYAR VILLAGE, IDUKKI DISTRICT, PIN-688551 THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28.10.2022, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

ORDER

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, seeking to Alappuzha.

2. The petitioners case in brief, in the

memorandum of transfer petition is that, she is the wife of the respondent. They are issueless. Due to the matrimonial cruelty that was meted out on the petitioner, by the respondent, she has filed M.C.No.36/2019 before the Judicial First Class Magistrate Court, Alappuzha, against the respondent under the Protection of Women

from Domestic Violence Act. The respondent is contesting the proceeding before the said court. Therefore, no inconvenience would be caused to him in Annexure-I being transferred. Hence, the transfer petition.

3. Heard; Sri. Gokul Das, 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 categoric 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], Santhini V. Vijaya Venkatesh [2017

(5) KHC 48] and N.C.V. Aishwarya vs. A.S. Saravana

Karthik Sha [2022 (5) KHC 185]. 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- cited decisions, the uncontroverted pleadings and materials on record, the totality of the facts and circumstances of the case, especially the fact that

M.C.No.36/2019 is pending before the competentjur

inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure and order the transfer of Annexure-I from the Family Court, Kattappana to the Family Court, Alappuzha. In the result, I allow the transfer petition as follows:-

(i) OP(Restitution) No.274/2019 is transferred from the Family Court, Kattappana to the Family Court, Alappuzha.

(iii) The Registry shall forward a copy of this order to the Family Court, Kattappana with instructions to forthwith transmit the records in Annexure-I to the Family Court, Alappuzha.

(iv) The Family Court, Alappuzha shall, immediately on receipt of the records in Annexure-I, issue notice to the parties for their appearance. Sd/- C.S.DIAS,
JUDGE

rkc/28.10.22 APPENDIX OF TR.P(C) 154/2020 PETITIONER ANNEXURES
ANNEXURE I TRUE COPY OF THE ORIGINAL PETITION IN OP(RESTITUTION)
NO.274/2019 BEFORE THE FAMILY COURT, KATTAPPANA

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