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Aparna M. vs Arun Kumar

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Court : Kerala

Decided On : May-31-2022

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : Tr.P(C)/203/2021

Appellant : Aparna M.

Respondent : Arun Kumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYAISHTA, 1944 TR.P(C) NO. 203 OF 2021 AGAINST THE ORDER/JUDGMENT IN OP 515/2020 OF FAMILY COURT, VADAKARA PETITIONER/S: APARNA M. AGED 35 YEARS D/O.P.V. MURALEEDHARAN, RESIDING AT PADMASREE HOUSE, NEAR KOTTOOLY GOVERNMENT, L P. SCHOOL, KOTTOOLY POST, KOZHIKODE TALUK, KOZHIKODE DISTRICT 663 014. BY ADVS. J.R.PREM NAVAZ SHRI.SUMEEN S. RESPONDENT/S: ARUN KUMAR AGED 41 YEARS S/O. ASHOKAN KIDAV, RESIDING A T AVARNA HOUSE ULLYERI, KOYILANDY TALUK, KOZHIKODE DISTRICT 673 323. THIS TRANSFER PETITION

(CIVIL) HAVING COME UP FOR ADMISSION ON 31.05.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

The wife/petitioner moved this Transfer Petition to transfer O.P No.515 of 2020 pending before the Family Court, Vatakara to the Family Court, Kozhikode.

2. O.P No.515 of 2020 is filed by the

husband/respondent before the Family Court, Vatakara for restitution of conjugal rights. The petitioner submits that she is jobless, and she is depending on her parents for her livelihood. The case has been filed by her husband in order to harass her. She has two kids and it is difficult for her to travel from Kozhikode to Vatakara. Her parents are old and there is no one to accompany her to appear before the Family Court, Vatakara. Though notice was issued from this Court the same was served on the respondent and none appeared.

3. On going through the averments in the Transfer

Petition as well the grounds raised, I am of the opinion that the -3- transfer petition can be allowed. Moreover, as held by the Hon'ble Supreme Court in Sumita Singh v. Kumar Sanjay and another [(2001) 10 SCC 41], Rajani Kishor Pardeshi v. Kishor Babulal Pardeshi [2005] 12 SCC 237] and a plethora of other decisions, in transfer petitions arising from matrimonial cases, the convenience of the wife should be preferred over that of the husband. In the result, the Transfer Petition is allowed. O.P No.515 of 2020 pending before the Family Court, Vatakara is withdrawn and transferred to the Family Court, Kozhikode. The Family Court, Vatakara shall immediately transfer the records to the Family Court, Kozhikode. On receipts of the records, the Family Court, Kozhikode shall dispose of the case in accordance with law. Sd/- BASANT BALAJI JUDGE JS -4- APPENDIX OF TR.P(C) 203/2021 PETITIONER ANNEXURES ANNEXURE A THE TRUE COPY OF O.P. NO. 515 OF 2020 PENDING ON THE FILES OF FAMILY COURT, VATAKARA IN KOZHIKODE DISTRICT.

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