

Soja Eapen vs Eapen V.E

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Court : Kerala

Decided On : Jun-01-2022

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : Tr.P(C)/529/2021

Appellant : Soja Eapen

Respondent : Eapen V.E

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
WEDNESDAY, THE 1ST DAY OF JUNE 2022 / 11TH JYAISHTA, 1944
AGAINST THE ORDER/JUDGMENT IN OP 883/2021 OF FAMILY
COURT, KOTTAYAM PETITIONER/S: SOJA EAPEN AGED 52 YEARS
D/O. LATE JAMES JOHN, T.C 4/1369, ARA 91 ANIYAN LANE,
AMBALAMUKKU, KOWDIAR P.O, THIRUVANANTHAPURAM 695 003
BY ADVS. V.K.BALACHANDRAN DRISHYA K.PRAKASH
RESPONDENT/S: EAPEN V.E AGED 59 YEARS S/O. LATE EAPEN,
VAZHAYIL AISHWARYA, MARAYAPALLY P.O, NATAKAM VILLAGE,
KOTTAYAM THALUK, KOTTAYAM 686 013 THIS TRANSFER
PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

01.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

This Transfer Petition is filed by the wife seeking transfer of O.P No.883/2021 pending before the Family Court, Ettumanoor to the Family Court, Thiruvananthapuram.

2. The respondent/husband filed O.P No.883/2021 for divorce on the ground of cruelty before the Family Court, Ettumanoor. The petitioner

is the wife of the respondent. Their marriage was solemnized on 15.09.2008. It was the second marriage for both the parties. A girl child was born in their wedlock. Due to the ill-treatment of the respondent, the petitioner along with the child returned to her parental home on 06.08.2021. On 12.08.2021 the respondent filed O.P No.883/2021 before the Family Court, Ettumanoor.

3. The petitioner submits that she is permanently residing with

the child in her parental home at Thiruvananthapuram. It is difficult for her to travel to the Family Court, Ettumanoor to attend the proceedings there. Though notice issued from this Court has been served on the respondent, none appeared. -3-

4. Taking into consideration the facts and circumstances of the

case as well as the grounds raised, I am of the opinion that the 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.883/2021

pending before the Family Court, Ettumanoor is withdrawn and transferred to the Family Court, Thiruvananthapuram. The Family Court, Ettumanoor shall

immediately transfer the records to the Family Court, Thiruvananthapuram. On receipt of the records, the Family Court, Thiruvananthapuram shall issue notice to the parties and dispose of the case in accordance with law.

Sd/- BASANT BALAJI JUDGE JS -4- APPENDIX OF TR.P(C) 529/2021
PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE PETITION
FILED AS O.P NO.883 OF 2021 BEFORE THE FAMILY COURT,
ETTUMANOOR.

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