

Santha Vs. Sree Kumar

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Court : Kerala

Decided On : Jun-24-1999

Reported in : II(1999)DMC770

Judge : K.A. Abdul Gafoor, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 24; [Family Courts Act, 1984](#) - Sections 7 and 7(1)

Appeal No. : C.M.C. No. 44 of 1999

Appellant : Santha

Respondent : Sree Kumar

Advocate for Def. : None

Advocate for Pet/Ap. : M. Balagovindan and; Vinod J. Dev, Advs.

Disposition : Petition dismissed

Judgement :

ORDER

K.A. Abdul Gafoor, J.

1. The defendant in a suit O.S. 96/95 on the file of the Munsif's Court, Varkala had approached this Court seeking an order for transfer of the suit to the Family Court,

Thiruvananthapuram.

2. Family Court is a special Court established for the purpose of trying the specific suits mentioned in Section 7(1) and explanation thereto. Therefore any suit, even though the parties are same, cannot be directed to be transferred to Family Court from a Subordinate Civil Court. The petitioner submits that the defendant is her husband and the subject-matter of the suit is in respect of the residential house occupied by the petitioner. There are pending cases before the Family Court, Thiruvananthapuram. Therefore, this shall be transferred.

3. If the subject-matter of the suit is one within Section 7(1) or the explanation thereunder, necessarily the subordinate Civil Court will have any jurisdiction to entertain it. Therefore, as the suit is one filed after establishment of the Family Court in Thiruvananthapuram, the petitioner need not worry about the result of the suit. On the other hand, if it is a suit beyond the scope of Section 7(1) and the explanation thereunder, necessarily it is totally within the jurisdiction of the Civil Court which cannot be transferred to Family Court as the Family Court will have no jurisdiction to try such suit. There is no merit in the petition. It is dismissed.

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