

(2013) 01 KL CK 0099
In the High Court Of Kerala
Case No : Tr.P. (C) No. 29 of 2012

Kala @ Viji Jesus Cottage, TC 11/112(1), Charachira
Nanthancode, Thiruvananthapuram

APPELLANT

Vs

Aniyankunju, Elavunkal House, Edakadathy P.O.,
Arayanjilimannu, Perinad, Ranny, Pin 673643

RESPONDENT

Date of Decision : 04-01-2013

Acts Referred:

Citation : (2013) 01 KL CK 0099

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : Suman Chakravarthy, for the Appellant; V. Sethunath, Sri. S. Manoj Kumar, Sri. V. Vinay and Sri. K.T. Sebastian, for the Respondent

Final Decision : Dismissed

Judgement

Thomas P. Joseph, J.—This petition is for transfer of O.P(Div.) No. 1115 of 2010 from the Family Court, Thiruvalla to the Family Court, Thiruvananthapuram. O.P(Div.) No. 1115 of 2010 is a petition filed by the respondent-husband for divorce. Learned counsel submits that the petitioner is a resident of Nanthancode, in Thiruvananthapuram city while the respondent belongs to Pathanamthitta District. The learned counsel submits that O.P.No. 1025 of 2006 for realization of amount and M.C.No. 206 of 2006 for maintenance filed by the petitioner are pending in the Family Court, Thiruvananthapuram. Hence the request for transfer.

2. Application is opposed by the respondent. It is submitted that if transfer is allowed it will cause inconvenience to the respondent.

3. The Supreme Court in Sumita Singh Vs. Kumar Sanjay and Another, and Arti Rani @ Pinki Devi and Another Vs. Dharmendra Kumar Gupta, has stated that while considering request for transfer of matrimonial proceedings convenience of the wife has to be looked into. That of course does not mean that inconvenience

of the husband has to be ignored.

4. The petitioner being a resident of Nanthancode, has to travel long distance to reach the family court at Thiruvalla. She may have to be accompanied by somebody which involves expenses. Two cases filed by the petitioner are pending in the Family Court, Thiruvananthapuram. Having regard to the circumstances stated I am inclined to think that if the transfer is not allowed, it will cause more hardship on the petitioner. Moreover, it is convenient for both parties that all the cases are tried and disposed of by the same court. The inconvenience that may be caused to the respondent can be reduced by permitting him to appear in the transferee court through counsel except when his physical presence is required. Hence I am inclined to allow the petition.

Resultantly, the Petition is allowed in the following lines:

(a) O.P(Div.) No. 1115 of 2010 pending in the Family Court, Thiruvalla is withdrawn from that court and made over to the Family Court, Thiruvananthapuram for trial and disposal.

(b) The transferor court while transmitting records of the case to the transferee court shall fix the date for appearance of parties in the transferee court with due intimation to the counsel on both sides.

(c) The Family Court, Thiruvananthapuram shall ensure that O.P(Div.) No. 1115 of 2010 (being transferred to it) and O.P. No. 1025 of 2006 and M.C. No. 206 of 2006 (pending in that court) are posted as far as possible, on the same dates.

(d) It is made clear that except when the physical presence of the respondent in the transferee court is necessary, he can appear through counsel.

All pending interlocutory applications will stand dismissed.