

Kerala High Court

Sudha A. vs Premakumaran on 15 July, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Tr.P(C).No. 194 of 2010()

1. SUDHA A.,D/O.NARAYANANKUTTY,
... Petitioner

Vs

1. PREMAKUMARAN, S/O.PADMANABHAN,
... Respondent

For Petitioner :SRI.M.R.VENUGOPAL

For Respondent : No Appearance

The Hon'ble MR. Justice THOMAS P.JOSEPH

Dated :15/07/2010

O R D E R

THOMAS P. JOSEPH, J.

Tr.P.(C) No.194 of 2010

Dated this the 15th day of July, 2010.

ORDER

This petition is filed by the wife seeking transfer of O.P. No.332 of 2010 from Family Court, Palakkad to Family Court, Thrissur. That is a petition filed by the respondent/husband for restitution of conjugal rights. Petitioner has already filed O.P.No.230 of 2010 seeking divorce, O.P.No.488 of 2010 for return of gold ornaments, etc. and M.C.No.154 of 2010 for maintenance against respondent/husband in the Family Court, Thrissur and those cases are pending in that court. Petitioner states that it is necessary that O.P.No.332 of 2010 is tried along with the cases pending in Family Court, Thrissur. It is stated that she is a resident of Pattiparambu, near Thrissur and has to travel a lot to reach Family Court, Palakkad if O.P.No.332 of 2010 continued to be in that court. In the circumstances she has requested for transfer. Respondent denies various allegations made against him and states that there is no reason to transfer O.P.No.332 of 2010 from Family

Court, Palakkad .

2. The Supreme Court in *Sumitha Singh v. Kumar Sanjay and another* (AIR 2002 SC 396) and *Arti Rani v. Dharmendra Kumar Gupta* [(2008) 9 SCC 353] has stated that while considering request for transfer of matrimonial proceedings convenience of the wife has to be looked into. It is not disputed that petitioner is a resident of Pattiparambu Tr.P.(C) No.194/2010 near Thrissur while respondent is staying at Olavakkode in Palakkad District. It is unnecessary to go into correctness of the allegations made by petitioner in this petition against respondent. What is required to be decided is only whether it is convenient to transfer the case to Family Court, Thrissur. Admittedly three cases involving the parties are pending in the Family Court, Thrissur. Petitioner has to travel from her place of residence to Palakkad if the case continued at that place. She may have to be accompanied by some relative. It involves additional expense also for her. Respondent has to attend Family Court, Thrissur to contest the cases pending against him in that court. Considering all these aspects and also that transfer of the case to Thrissur will not cause that much inconvenience to the respondent/husband, I am inclined to allow this petition.

Resultantly this petition is allowed in the following lines: i. O.P. No.332 of 2010 pending in Family Court, Palakkad is withdrawn from that court and made over to Family Court, Thrissur.

ii. Family Court, Thrissur will ensure that all the cases between petitioner and respondent are posted on the same dates, as far as possible. Tr.P.(C) No.194/2010 iii. It is made clear that except when the physical presence of respondent is required in the transferee court it is open to him to appear through counsel.

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

I.A.No.1653 of 2010 will stand dismissed.

THOMAS P.JOSEPH, Judge.

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