

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 28TH DAY OF FEBRUARY 2018 / 9TH PHALGUNA, 1939

Tr.P(C).No. 363 of 2017

OP(HMA) 491/2017 OF FAMILY COURT, KOTTARAKARA, TO FAMILY COURT,
THIRUVANANTHAPURAM

PETITIONER/RESPONDENT

RESHMI V.T,
D/O.BHARATHI M.K., AGED 29, VADAKARA PARAMBIL,
ABHAYA NAGAR-61, PEROORKADA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADV.SRI.M.SREEKUMAR

RESPONDENT/PETITIONER:

ARUN S,
S/O.SOMARAJAN, 'VINEETH BHAVAN', CHERUVALLOOR,
ANDOOD P.O., KOTTARAKARA-691532.

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-02-2018,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.V.

Tr.P(C) .No. 363 of 2017

APPENDIX

PETITIONERS ANNEXURES:

ANNEXURE A: TRUE COPY OF PETITION IN OP (HMA0 NO 491/17 PENDING BEFORE THE FAMILY COURT, KOTTARAKARA FILED BY THE RESPONDENT DATED 28.4.2017.

RESPONDENTS ANNEXURES: NIL

/TRUE COPY/

K.V.
1.03.2018

P.S.TO JUDGE

ALEXANDER THOMAS, J.

Tr.P.(C) No. 363 of 2017

Dated this the 28th day of February, 2018

ORDER

The main prayer in this Transfer Petition (Civil) filed under Section 24 of the Code of Civil Procedure is as follows :

“For the reasons stated above and for such other grounds that may be urged at the time of hearing it is humbly prayed that this Hon'ble Court may be pleased to transfer OP(HMA) No.491/2017 pending before the Family Court, Kottarakkara to the Family Court, Thiruvananthapuram in the interest of justice.”

2. Heard Sri.M. Sreekumar, learned counsel appearing for the petitioner. Though notice has been duly served on the respondent, there is no appearance for that party.

3. The petitioner herein is the wife of the respondent herein. Due to the matrimonial disputes between the spouses, the respondent has filed O.P.(HMA) No.491/2017 before the Family Court, Kottarakkara. Petitioner states that she finds it extremely difficult to travel all the way from Peroorkada, in Thiruvananthapuram District to attend the proceedings pending before the Family Court, Kottarakkara. The prayer is not opposed by the respondent, in spite of service of notice.

4. In the judgments of the Apex Court as in ***Sumitha Singh v. Kumar Sanjay & Anr.*** reported in (2001) 10 SCC 41,

Rajwinder Kaur v. Balwinder Singh reported in (2003) 11 SCC 726, ***Mona Aresh Goel v. Aresh Satya Goel***, reported in (2000) 9 SCC 255, ***Vaishali Shridhar Jagtap v. Shridhar Vishwanath Jagtap***, reported in AIR 2016 SC 3584, etc. it has been held that in the matter of transfer of cases from one Family Court to another, inconvenience to wife should be given special consideration by the courts, etc.

5. Accordingly, it is ordered that O.P.(HMA) No.491/2017 now pending on the file of the Family Court, Kottarakkara will stand transferred to file of the Family Court, Thiruvananthapuram. The petitioner shall produce a certified copy of this order before the Family Court, Kottarakkara and upon such receipt, that Court shall transmit the case papers and records in relation to O.P. (HMA) No.491/2017 to the Family Court, Thiruvananthapuram. On receipt of the case papers, the Family Court, Thiruvananthapuram shall issue notices to the parties concerned and thereafter proceed with the matter in accordance with law.

6. Taking note of the submissions made by the parties regarding the inconvenience faced by them, it is ordered in the interest of justice that it will be open to both parties to make appropriate applications for exemption from personal appearance

before the Family Court, upon which, the said request may be considered favourably. However, it is made clear that the parties will have to appear before the Family Court at the time of counselling and mediation process, etc., as and when specifically so directed by the Family Court.

With these observations and directions, this Transfer Petition (Civil) stands finally disposed of.

Sd/-
ALEXANDER THOMAS, JUDGE

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