

(2010) 09 KL CK 0085

High Court Of Kerala

Case No: Tr. P. (C) No. 73 of 2010

Seemanthini

APPELLANT

Vs

G. Suresh Kumar

RESPONDENT

Date of Decision: Sept. 6, 2010

Hon'ble Judges: Thomas P. Joseph, J

Bench: Single Bench

Advocate: M. Muhammed Shafi, for the Appellant; No Appearance, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Thomas P. Joseph, J.

Respondent is served on the petition but he has not responded. Heard counsel for petitioner.

2. This petition is filed by the wife seeking transfer of O.P. (G&W) No. 786 of 2009 from Family Court, Palakkad to Family Court, Kozhikode. That is a petition filed by the respondent/husband seeking custody of his eldest child aged about seven years. It is stated that petitioner is a resident of Mathara in Kozhikode District and she has to travel about 100 kms. from her place of residence to contest the case pending in Family Court, Palakkad. It is stated that petitioner filed M.C. No. 259 of 2006 seeking maintenance for herself and the children and that application was allowed in the year 2007. But respondent did not pay any amount. Hence he was arrested and produced in Family Court, Kozhikode in the year 2009. At that time he paid certain amounts. It is thereafter that he filed O.P.(G&W) No. 786 of 2009 in Family Court, Palakkad. Learned Counsel states that petitioner is aged 30 years and there is nobody to accompany her to Family Court, Palakkad.

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 the request for transfer of matrimonial proceedings convenience of the wife has to be looked into. True that does not mean that inconvenience if any of the

husband need not be considered.

4. Petitioner/wife is staying at Kozhilode and that is more than 100 kms. away from Family Court, Palakkad. In M.C. No. 259 of 2006 Family Court, Kozhikode has already directed respondent to pay maintenance. That is in the execution stage. Having regard to the circumstances stated by petitioner I am inclined to think that the comparative hardship of petitioner is more if request for transfer is not allowed. Hence I am inclined to allow this petition.

5. Resultantly this petition is allowed in the following lines:

i. O.P. No. 786 of 2009 pending in Family Court, Palakkad is withdrawn from that court and made over to Family Court, Kozhikode for trial and disposal.

ii. 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.

iii. It is made clear that except when physical presence of respondent is required in the transferee court it is open to him to appear through counsel.

I.A. No. 623 of 2010 will stand dismissed.