

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

Tr.Appeal(C).No. 5 of 2014 () IN Tr.P(C).442/2013

AGAINST THE ORDER/JUDGMENT IN Tr.P(C) 442/2013 of HIGH COURT
OF KERALA DATED 30-05-2014

APPELLANT(S)/PETITIONER:

K.P.ANITHA AGED 38 YEARS
D/O.GOPALAN NAIR, PERULIYIL HOUSE, P.O ARIMBUR
THRISSUR DISTRICT - 680 620.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S)/RESPONDENTS:

1. MANIKANDAN, AGED 47 YEARS,
S/O.CHERIYATH KIZHAKETHIL DEVAKIAMMA
ALANKODE AMSOM DESOM, PONNANI TALUK
MALAPPURAM DISTRICT - 679 585.
2. SIVASANKARAN
S/O.RAGHAVAN NAIR, PARAPPUR HOUSE,
MOOKUTHALA P.O
MALA, THRISSUR DISTRICT - 679 574.

R2 BY ADV. SRI.N.L.BITTO

THIS TRANSFER APPEAL(CIVIL) HAVING BEEN FINALLY HEARD
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
SUNIL THOMAS, JJ.

.....
Tr. Appeal No.5 of 2014
.....

Dated this the 8th day of July, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. Heard.

2. This appeal is against an order by which the learned single Judge refused to transfer a case from Family Court, Tirur to Family Court, Thrissur.

3. We have considered the arguments and have looked into basic facts.

4. The husband lives in Tirur, which appears to be the place of matrimonial home. We say so because, two children of the couple live with the husband. The wife is in Thrissur. The husband filed an application for divorce in Family Court, Tirur. The fact that the ground of divorce is adultery of the wife with her brother-in-law

does not, in any manner, weigh with this Court. But, the fact that the husband is an autorickshaw driver and that he is taking care of the two minor daughters in Tirur weighed with the learned single Judge to refuse transfer of the case from Family Court, Tirur to Family Court, Thrissur, at the instance of the wife. The learned single Judge has also clarified that it will be open to the wife to seek exemption from personal appearance in the Family Court, Tirur, as may be directed by that court. Under such circumstances, we do not find any ground to interfere with the discretion exercised by the learned single Judge under Section 24 of the Code of Civil Procedure through this intra-court appeal under Section 5 of the Kerala High Court Act, 1958. This appeal, therefore, fails.

In the result, this appeal is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(SUNIL THOMAS, JUDGE)