

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

CA. Transfer Case No. **CA/TR/ 56/2015**
D.C. Trincomalee D/1611/2014

Thilakarathinam Sangeetha
No. 21. Stanley Road.
Jaffna.

Petitioner

Vs.

Sivapunniam Thilakarathinam
"Ragini Jewellery"
No. 81 B. Rajavarithajam Road,
Trincomalee.

Respondent

C.A. (Transfer)Application No. 56/2015

BEFORE : **VIJITH K. MALALGODA, P.C.J.(P/CA) &
H.C.J. MADAWALA, J.**

COUNSEL : A.Mithakrishnan with K. Shathiyaraji for
the Petitioner.

Respondent is absent and unrepresented.

ARGUED &

DECIDED ON : 13.07.2015

Vijith K. Malalgoda, P.C. J. (P/CA)

In this matter the petitioner has come before this Court seeking an order for the transfer of the case pending in the District Court of Trincomalee Case No. D/1611/2014 under Section 46 of the Judicature Act. This Court after issuing notices on the respondent also issued a stay order restraining the Learned District Judge proceeding the matter in the said District Court. Though notices were issued on the respondent on several occasions, respondent was absent and unrepresented. On 4th June 2015 this matter was come up before this Court and matter was fixed for inquiry today.

Copy of the stay order has been dispatched even thereafter on 05.06.2015 to the District Judge, District Court of Trincomalee. We are of the view that the respondent has sufficient notices of this matter and if the respondent was interested in objecting for the transfer, there was ample time for the respondent to come before Court and object to this application.

The petitioner to this case is a lady from Jaffna who got married to the respondent who is a resident of Trincomalee. After the marriage was broken, she has gone back to her home town and she is presently with her parent. The respondent has filed this divorce action in the District Court of Trincomalee. She complained of her hardship coming to Trincomalee to appear for this case and she has also complained that she has two children and she has no way of leaving them in Jaffna in order to come to attend District Court proceeding in the District Court of Trincomalee. She further submits that when she is coming to the District Court of Trincomalee, she doesn't have a proper place to stay with her children. Petitioner further submits that the maintenance application filed by the petitioner against the respondent is pending in the Magistrate's Court of Jaffna too. Under these circumstances, she has prayed from this Court to

make order transferring this case bearing No. D/1611/2014 pending in the District Court of Trincomalee to the District Court of Jaffna acting under Section 46 of the Judicature Act read with Section 10 of the Civil Procedure Code.

We are satisfied that this is a fit and proper case for this Court to make order as prayed for by the petitioner in prayer (ii) of the petition transferring case bearing No. D/1611/2014 to the District Court of Jaffna.

Registrar is directed to communicate this order to the Registrar, District Court of Trincomalee and also to the Registrar, District Court of Jaffna to take necessary steps. The Registrar is further directed to issue a certified copy of this order to the petitioner on payment of usual charges.

PRESIDENT OF THE COURT OF APPEAL

H.C.J. Madawala, J.

I agree.

JUDGE OF THE COURT OF APPEAL

/mds