

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 17TH DAY OF JANUARY 2023 / 27TH POUSHA, 1944

O.P.(FC) NO. 22 OF 2023

AGAINST THE ORDER DATED 02.09.2022 IN I.A.NO.2 OF 2022 IN

G.O.P.NO.1076 OF 2022 ON THE FILE OF THE FAMILY COURT,

KUNNAMKULAM

PETITIONERS:

1 SAJNA P.J
AGED 30 YEARS, D/O. PAZHAMBULLYPARAMBIL JAMAL,
VALAPPAD VILLAGE, KOTHAKULAM, S N ROAD DESOM,
CHAVAKKAD TALUK, THRISSUR DISTRICT - 680 567.
REP. BY POWER OF ATTORNEY HOLDER SAINA. AGED 50
YEARS, W/O.PAZHAMBULLYPARAMBIL JAMAL, VALAPPAD
VILLAGE. KOTHAKULAM, S N ROAD DESOM, CHAVAKKAD
TALUK, THRISSUR DISTRICT, PIN - 680567.

2 SAINA
AGED 50 YEARS, W/O.PAZHAMBULLYPARAMBIL JAMAL,
VALAPPAD VILLAGE. KOTHAKULAM,
S N ROAD DESOM, CHAVAKKAD TALUK, THRISSUR
DISTRICT, PIN - 680567.

3 JIBIN
AGED 23 YEARS,
S/O. PAZHAMBULLYPARAMBIL JAMAL, VALAPPAD
VILLAGE. KOTHAKULAM, S N ROAD DESOM, CHAVAKKAD
TALUK, THRISSUR DISTRICT, PIN - 680567.

BY ADVS.

SANTHOSH P.PODUVAL

R.RAJITHA

CHITHRA S.BABU

O.P.(F.C.) No.22 of 2023

RESPONDENT:

ISAHAK ISMAIL
AGED 33 YEARS, S/O.CHULLIPARAMBIL ISMAIL BAVA,
VADAKKUMKARA VILLAGE, VELLANKALLUR DESOM,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT,
PIN - 680662.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 17.01.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

P.G. Ajithkumar, J.

G.O.P.No.1076 of 2022 was filed by the respondent before the Family Court, Irinjalakuda for an order granting him custody of the child Shaisa Mariam, aged 4 years. The petitioners, who are the respondents in that O.P. has filed I.A.No.3 of 2022 seeking permission of the court to take the child abroad where the 1st petitioner is working. The petitioners have filed this Original Petition under Article 227 of the Constitution of India, seeking a direction to the Family Court, Kunnampalam, to which court G.O.P.No.1076 of 2022 has been transferred, to dispose of I.A. No.3 of 2022 before taking a decision regarding the claim of the respondent to get overnight custody of the child.

2. Heard the learned counsel appearing for the petitioner. Considering the nature of the relief proposed to be granted, service of notice on the respondent is dispensed with.

3. Marriage of the 1st petitioner and the respondent was solemnized on 31.06.2016. Shaisa Mariam was born to them on 25.04.2018. Following the marital discord, the 1st

O.P.(F.C.) No.22 of 2023

petitioner and the respondent were living separately. The 1st petitioner is employed in Oman. The respondent pointing out the said circumstances filed G.O.P.No.1076 of 2022 before the Family Court, Irinjalakuda seeking custody of the child. I.A.No.2 of 2022 was filed by the respondent in that petition for getting interim custody of the child. As per the order dated 02.09.2022, Ext.P5, the Family Court allowed interim custody of the child to the respondent from 11.00 a.m. on every second statutory till 400 p.m. on the ensuing Sunday and also during the first three days of Onam and Christmas holidays. In addition, custody for the first 10 days during summer vacation was also given to the respondent.

4. The child is now in the care and protection of the petitioners 2 and 3. The 1st petitioner wants to take the child abroad where she is working. The grievance of the petitioners is that I.A.No.3 of 2022 filed by the petitioners seeking permission to take the child abroad is pending consideration of the Family Court, Irinjalakuda and while so, the case was transferred to the Family Court, Kunnankulam, on its

O.P.(F.C.) No.22 of 2023

commencement. Due to such developments, disposal of I.A.No.3 of 2022, Ext.P4 is getting delayed, which causes prejudice to the 1st petitioner and also to the welfare of the child. In such circumstance, the petitioners seek an early disposal of Ext.P4.

5. Having heard the submissions of the learned counsel for the petitioner, we are of the view that the reasons stated for an early disposal of Ext.P4 application are genuine. Hence, we allow this Original Petition and direct the Judge/Judge-in-charge, Family Court, Kunnamkulam to dispose of I.A.No.3 of 2022 in G.O.P.No.1076 of 2022 within a period of three weeks from the date of production of a certified copy of the judgment.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

dkr

O.P.(F.C.) No.22 of 2023

APPENDIX OF OP (FC) 22/2023

PETITIONER EXHIBITS

EXHIBIT -P1	TRUE COPY OF PETITION IN GOP 1076/22 BEFORE THE FAMILY COURT, IRINJALAKKUDA
EXHIBIT P2	TRUE COPY OF I.A. 2/22 IN GOP 1076/22 BEFORE THE FAMILY COURT, IRINJALAKKUDA
EXHIBIT -P3	TRUE COPY OF OBJECTION IN I.A. 2/22 IN GOP 1076/22 BEFORE THE FAMILY COURT, IRINJALAKKUDA
EXHIBIT -P4	TRUE COPY OF I.A. 3/22 IN GOP 1076/22 BEFORE THE FAMILY COURT, IRINJALAKKUDA
EXHIBIT -P5	TRUE COPY OF ORDER DATED 2/9/22 IN GOP 1076/22 BEFORE THE FAMILY COURT, IRINJALAKKUDA
EXHIBIT -P6	TRUE COPY OF JUDGMENT DATED 16/11/22 IN O.P. (FC) 562/22 OF THIS COURT