

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 30TH DAY OF AUGUST 2022 / 8TH BHADRA, 1944

TR.P(C) NO. 336 OF 2022

THE ORDER/JUDGMENT IN OP 674/2022 OF FAMILY
COURT, ERNAKULAM

PETITIONER/S:

VISHNUPRIYA
AGED 28 YEARS
VISHNUPRIYA.M.P, W/O RAJEEV.M.B, MARAMUTTATH
HOUSE, PULLUT.P.O, PULLUT VILLAGE, KODUNGALLOOR
TALUK, THRISSUR DISTRICT., PIN - 680664

BY ADVS.
M.SHAJU PURUSHOTHAMAN
K.S.RAJESH

RESPONDENT/S:

RAJEEV M B
AGED 30 YEARS
S/O BABU, MANAKKATHAZHAM HOUSE,
KANJOOR, PARAPPURAM.P.O, KIZHAKKUM BHAGAM
VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT, PIN-
686579, PIN - 695001

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 30.08.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, seeking to transfer OP(HMA) No.674/2022 (Annexure A) from the Family Court, Ernakulam to the Family Court, Irinjalakuda.

2. The petitioner's case in brief, in the memorandum of transfer petition is that, she is the wife of the respondent. Their marital relationship is strained. Due to the matrimonial cruelty that was meted out on the petitioner by the respondent, she was constrained to leave the matrimonial home. She is residing in her parental home. The respondent has refused to maintain the petitioner. She has filed M.C.No.42/2022 (Annexure C) against the respondent, seeking an order of maintenance. She has also filed O.P.No.362/2022 against the respondent before the same court, seeking an order for return of ornaments. The respondent is contesting the above two cases before the Family Court, Irinjalakuda. Therefore, no

inconvenience would be caused to him in Annexure A being transferred. Hence the transfer petition.

3. Heard; Sri. Shaju Purushothaman, the learned counsel appearing for the petitioner. Even though notice has been served on the respondent, there is no appearance for him.

4. The law with respect to transfer of proceedings, particularly matrimonial disputes, is no longer res-integra, in view of the categorical declaration of law by the Hon'ble Supreme Court in ***Sumitha Sing V. Kumar Sanjay and another*** [2002 KHC 1889], ***Mona Aresh Goel V. Aresh Satya Goel*** [2000 KHC 1835], ***Vaishali Shridhar Jagtap V. Shridhar Vishwanath Jagtap*** [2016 KHC 6489], ***Santhini V. Vijaya Venkatesh*** [2017 (5) KHC 48] and ***N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha*** [2022 (5) KHC 185]. The Hon'ble Supreme Court has held that it is the convenience of the woman and children that has to be looked into, while ordering the transfer of a

case from one Court to another.

5. In the light of the law laid down in the afore-cited decisions, the uncontroverted pleadings and materials on record, the totality of the facts and circumstances of the case, particularly the fact that Annexure C and O.P.No.362/2022 are pending before the Family Court, Irinjalakuda, I am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure and order the transfer of Annexure-A from the Family Court, Ernakulam to the Family Court, Irinjalakuda, so that the cases can be consolidated and jointly tried, which would save precious judicial time and avoid conflict of decisions.

In the result, I allow the transfer petition as follows:-

- (i) OP(HMA) No.674/2022 is transferred from the Family Court, Ernakulam to the Family Court, Irinjalakuda.

- (ii) The parties would be at liberty to move the Family Court, Irinjalauda and seek for consolidation and joint trial of all the cases between them.
- (iii) The Registry shall forward a copy of this order to the Family Court, Ernakulam with instructions to forthwith transmit the records in Annexure-A to the Family Court, Irinjalakuda.
- (iv) The Family Court, Irinjalakuda shall, immediately on receipt of the records in Annexure-A, post the case along with M.C.No.42/2022 and O.P.No.362/2022.

Sd/-

C.S.DIAS, JUDGE

rkc/30.08.22

APPENDIX OF TR.P(C) 336/2022

PETITIONER ANNEXURES

Annexure A	THE TRUE COPY OF O.P.674/2022 FILED BEFORE THE FAMILY COURT,ERNAKULAM DT.10.3.2022
AnnexureB	THE TRUE COPY OF THE DISABILITY CERTIFICATE ISSUED BY MEDICAL BOARD DT.12.7.2017
Annexure C	THE TRUE COPY OF M.C.42/2022 FILED BEFORE THE FAMILY COURT,IRINJALAKUDA DT.21.3.2022