

Tr.P (C)No.619 of 2022

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR.JUSTICE C.S.DIAS**

**FRIDAY, THE 3<sup>RD</sup> DAY OF FEBRUARY 2023 / 14TH MAGHA, 1944**

**TR.P(C) NO. 619 OF 2022**

**TO TRANSFER OP 507/2022 OF FAMILY COURT, KALPETTA**

**PETITIONER/S:**

SREELEKSHMI.S

AGED 24 YEARS

D/O PRABHAKARAN NAIR, MEENU BHAVAN, KEEZHAVOOR,  
KEEZHAVOOR P.O, THIRUVANANTHAPURAM, KERALA, PIN -  
695584

BY ADVS.

SREEJITH S. NAIR

S.K.ADHITHYAN

**RESPONDENT/S:**

NIDHEESH K RAJACHANDRAN

AGED 33 YEARS

S/O RAJACHANDRAN, KOZHIKKARAYIL HOUSE, CHAMAPPARA,  
SEETHAMOUND. P.O, PADCHIRA, WAYANAD, KERALA, PIN -  
673579

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 03.02.2023, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

**C.S DIAS,J.****Tr.P (C)No.619 of 2022****Dated this the 3<sup>rd</sup> day of February, 2023.****ORDER**

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, seeking to transfer OP(D) No.507/2022 (Annexure-1) from the Family Court, Kalpetta, to the Family Court, Thiruvananthapuram.

2. The petitioner's case, in brief, in the memorandum of transfer petition is that, she is the wife of the respondent. They have a one year old child born in the wedlock. The marital relationship is strained. The petitioner and the child are residing in the petitioner's parental home in Thiruvananthapuram. There is no person to chaperone the petitioner from Thiruvananthapuram to Wayanad to contest Annexure-1. On a comparison of relative hardship, due preference and weightage has to be given to the petitioner and the child. Hence, the transfer petition.

3. Heard; Sri.Sreejith S.Nair, 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 182]. 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 pleadings and materials on record, the totality of the facts and circumstances of the case, particularly the fact that the petitioner is a 24 year old lady and has a one year old child, I am inclined to exercise the discretionary powers of this Court under Sec.24 of the Code of Civil Procedure and order the transfer of Annexure 1 from the Family Court Kalpetta.

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

(i) OP (D)No.507/2022 is transferred from the Family Court, Kalpetta to the Family Court, Thiruvananthapuram.

(ii) The Registry shall forward a copy of this order to the Family Court, Kalpetta, with instructions to forthwith transmit the records in Annexure-1 to the Family Court, Thiruvananthapuram.

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(iii) The Family Court, Thiruvananthpuram, shall, immediately on receipt of the records in Annexure-1, issue notice to the parties for their appearance.

sks/3.2.2023

**SD/-  
C.S.DIAS, JUDGE**

**APPENDIX OF TR.P(C) 619/2022**

## PETITIONER ANNEXURES

Annexure1	THE TRUE COPY OF THE OP(D) NO. 507/2022 OF THE FAMILY COURT OF KALPETTA
Annexure2	THE TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY THE REGISTRAR OF MARRIAGES, POOTHADI GRAMA PANCHAYAT BEARING CERTIFICATE NO. 11073/2018 DATED 27/10/2018
Annexure3	THE TRUE COPY OF THE MEDICAL REPORTS OF THE PETITIONER