

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 4TH DAY OF JANUARY 2023 / 14TH POUSHA, 1944

TR.P(C) NO. 661 OF 2022

IN OP 1549/2021 OF FAMILY COURT, NEDUMANGAD

PETITIONER:

RESHMI DAS,
AGED 29 YEARS,
PITHRUKUNNTHODIYIL,
IRUMPUZHIKKARA, UDAYANAPURAM P.O.,
VAIKOM, KOTTAYAM, PIN - 686143

BY ADV K.K.RAJEEV

RESPONDENT:

ARUN J,
AGED 31 YEARS,
SGRA 302, RAGAM, KOTTAMUGAL,
NALANCHIRA P.O., THIRUVANANTHAPURAM,
PIN - 695004

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 04.01.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Dated this the 4th day of January, 2023

ORDER

The transfer petition is filed under Section 24 of the Code of Civil Procedure, 1908 (*in short, 'C.P.C.'*), seeking to transfer O.P.(Div)No.1549/2021 (Annexure-A1), from the Family Court, Nedumangad to the Family Court, Ernakulam.

2. The petitioner's case, in brief, in the memorandum of transfer petition is that, she is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized under the Special Marriage Act, 1954, before the Sub Registry Office, Vaikom. The petitioner is permanently residing at Vaikom. The marital relationship is strained. The Family Court, Thiruvananthapuram has no jurisdiction to entertain Annexure-A1. There is also no person to chaperone the petitioner from Vaikom to Thiruvananthapuram, to contest Annexure-A1. Hence,

the transfer petition.

3. Heard; Sri. K.K.Rajeev, 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*** [(2001)10 SCC 41)], ***Mona Aresh Goel V. Aresh Satya Goel*** [(2000) 9 SCC 255], ***Vaishali Shridhar Jagtap V. Shridhar Vishwanath Jagtap*** [AIR 2016 SC 3584], ***Santhini V. Vijaya Venkatesh*** [2017 (4) KLT 415 (SC)], ***N.C.V. Aiswarya v. A.S. Sharavana Karthik Sha***[2022(5) KHC 185] and ***Valsal Nisha v. Rajesh Soman Nair*** [2020(8) KLR 475]. 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 totality of the facts and circumstances of the case, considering the fact that the petitioner is the permanent resident of Vaikom and that she is presently employed in Ernakulam, I am inclined to exercise the discretionary powers of this Court under Section 24 of the C.P.C. and order the transfer of the Annexure-A1.

In the result, I pass the following directions:

- (i) The transfer petition is allowed, by ordering the transfer of O.P.(Divorce)No.1549/2021 from the Family Court, Nedumangad to the Family Court, Ernakulam.
- (ii) The Registry shall forthwith forward a copy of the order to the Family Court, Nedumangad with instructions to transmit the records in Annexure-A1 to the Family Court, Ernakulam.

(iii) The Family Court, Ernakulam shall, immediately on receipt of the records in Annexure-A1, issue notice to the parties for their appearance.

Sd/-

C.S.DIAS,JUDGE

DST/04.01.23

//True copy/

P.A.To Judge

APPENDIX

PETITIONER ANNEXURES

ANNEXURE1 TRUE COPY OF THE OP(DIVORCE) NO. 1549/2021
BEFORE THE HON'BLE FAMILY COURT, NEDUMANGAD

ANNEXURE A-3 TRUE COPY OF THE SUMMONS ISSUED FROM THE
NEDUMANGAD FAMILY COURT IN OP(DIVORCE) NO.
1549/2021 DATED 20.09.2022

RESPONDENT ANNEXURES: NIL