



2025:KER:10392

Tr.Appeal (C) No.25 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

TUESDAY, THE 11TH DAY OF FEBRUARY 2025 / 22ND MAGHA, 1946

TR.APPEAL(C) NO. 25 OF 2024

[AGAINST THE ORDER DATED 18.11.24 IN Tr.P(C) NO.576 OF
2024 OF HIGH COURT OF KERALA]

APPELLANT/PETITIONER:

DIVYALAKSHMI

AGED 38 YEARS

D/O LATE SREENIVASAN, RESIDING AT DIVYA HOUSE, MAKKADA
DESOM, KAKKODI VILLAGE, P.O. KAKKODI, KOZHIKODE, PIN -
673611

BY ADVS.

V.V.SURENDRAN

P.A.HARISH

DONA PAUL

RESPONDENT/RESPONDENT:

SIJESH SIDHARTHAN

AGED 39 YEARS

S/O. LATE SIDHARTHAN, RESIDING AT NEDIYEDATH HOUSE,
MANATHALA DESOM, MANATHALA VILLAGE, P.O. CHAVAKKAD,
THRISSUR, PIN - 680506

THIS TRANSFER APPEAL(CIVIL) HAVING COME UP FOR ADMISSION ON
07.02.2025, THE COURT ON 11.02.2025 DELIVERED THE FOLLOWING:



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JUDGMENT

SHOBA ANNAMMA EAPEN, J.

The appellant/petitioner filed Tr.P.(C) No. 576 of 2024 under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of O.P. No.2323 of 2023, pending on the file of the Family Court, Kunnamkulam, to the Family Court, Kozhikode. The O.P is filed by the respondent herein against the appellant, seeking a decree for divorce. As per the impugned order dated 18.11.2024, learned Single Judge dismissed the Transfer Petition.

2. The appellant seeks for transfer of O.P.No.2323 of 2023 to the Family Court, Kozhikode, on the ground that the appellant is working in Dubai and is residing along with her minor daughter. She further contends that there is nobody to accompany her to Kunnamkulam and her mother is ill and is unable to undertake long journeys. She also submits that her siblings, being away in connection with their avocation, are not able to accompany her mother. She also apprehends physical assault from the



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respondent/husband if she comes to Kunnamkulam. Hence, she seeks for transfer of the original petition.

3. *Per contra*, the respondent contends that he is also working in Dubai and his mother, aged 64 years, who is his Power of Attorney Holder, is suffering from cancer and is not in a position to travel from Kunnamkulam to Kozhikode.

4. The learned Single Judge was not convinced with the reasons stated for the transfer of the original petition and accordingly, dismissed the original petition.

5. Heard the learned counsel on both sides.

6. Both the appellant as well as the respondent are employed at Dubai. The respondent has filed the original petition through his power of attorney holder, mother. The appellant, also being employed in Dubai, is proposing to conduct the case through her mother. The respondent has produced documents to prove that his mother is ailing from cancer and is not in a position to travel from Kunnamkulam to Kozhikode. The appellant



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has also stated that her mother is aged and is having several age related ailments. Both are almost identically placed. The request of the appellant to transfer the case from Kunnamkulam to Kozhikode cannot be allowed, since the mother of the respondent is stated to be undergoing treatment for cancer. There is a distance of more than 100 km from Kunnamkulam to Kozhikode. Since the cases are being conducted through their power of attorney holders, they have to travel all the way from Kunnamkulam to Kozhikode or vice versa. Hence, considering the travel time and the difficulties that might be faced by both parties, we find it just and reasonable to transfer the original petition to a more centrally located Court, between Kunnamkulam and Kozhikode.

Accordingly, the transfer petition is allowed, as follows:

A. Original petition No.2323 of 2023 on file of the Family Court, Kunnamkulam, will stand withdrawn and transferred to the Family Court, Tirur.

B. The parties are free to move the Family Court for



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permission for appearance through video conferencing except when personal appearance is necessary. If such an application is filed, the Family Court, Tirur shall consider the same in accordance with law.

C.The case records shall be transmitted to the transferee court forthwith.

D.The parties shall appear before the transferee court on 24.02.2025 without further notice.

Sd/-
SATHISH NINAN
JUDGE

sd/-
SHOBA ANNAMMA EAPEN
JUDGE

bka/-