



2025:KER:14796

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BASANT BALAJI

THURSDAY, THE 20TH DAY OF FEBRUARY 2025 / 1ST PHALGUNA, 1946TR.P.(C) NO.439 OF 2024(AGAINST THE ORDER/JUDGMENT IN OPC NO.843 OF 2024
OF FAMILY COURT, THRISSUR)PETITIONER/RESPONDENT:VIDYA SOMAN, AGED 34 YEARS, D/O. SOMASUNDARAN, KRISHNAKRIPA,
PIPE LINE ROAD, KUTHIRAVATTOM P.O., KOZHIKODE, PIN - 673 016BY ADVS.
SAIJO HASSAN
BENOJ C AUGUSTIN
V.P.REJITHA
NITIN S.
MEERA J. MENON
DHEERAJ BABYRESPONDENT/PETITIONER:MIDHUN JOHN, AGED 39 YEARS, S/O. JOHN T.A.,
THATTIL IYYU HOUSE, NEAR BOTTU JETTY, AVINISSERY,
OLLUR P.O., THRISSUR, PIN - 670 313BY ADVS.
K.RAJESWARY
ANIL PRABHA.K(K/220/2002)THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27.6.2024, THE COURT ON 20.02.2025 DELIVERED THE FOLLOWING:



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ORDER(Dated: 20th February, 2025)

The petitioner is the wife, and the marriage was solemnised on 25.03.2013 at Chevayur. A girl child was born in the wedlock and is aged 5 years. The respondent filed O.P.(Civil) No.843 of 2024 before the Family Court, Thrissur, for the return of money amounting to Rs.9.5 lakhs.

2. The case of the petitioner is that she has no financial support and she is a permanent resident of Kuthiravattom at Kozhikkode. Hence, she seeks a transfer of O.P.No.843 of 2024 pending before the Family Court, Thrissur to the Family Court, Kozhikkode.

3. The petitioner has filed I.A.No.1 of 2025 to accept Annexures 2, 3, 4, and 5 as additional documents. Annexure-2 is the disability certificate issued by the Medical Board in which the members of



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the District Disability Board have assessed 60% of permanent disability.

4. A counter affidavit is filed by the respondent. He contended that the petitioner is doing her work as work from home and earns a salary of Rs.2 lakhs from the IT field. The petition schedule property is situated in Thrissur District, therefore, the original suit is filed before the Family Court, Thrissur. It is also contended that the convenience of the wife cannot be taken as a general ground and it varies in each case.

5. Heard counsel for the petitioner as well as the counsel for the respondent.

6. It is not in dispute that the petitioner is 60% physically disabled as evidenced by Annexure-2. Moreover, the distance between the Family Court, Thrissur, and the residence of the petitioner in Calicut is more than 100 kilometres. Therefore, a person who is physically



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disabled cannot travel the above distances to contest the case pending before the Family Court, Thrissur.

7. The law in respect of transfer of proceedings, particularly in matrimonial disputes, is no longer *res-integra*, in view of the categorical declaration of law by the Hon'ble Supreme Court in ***Sumitha Singh 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] and ***Santhini v. Vijaya Venkatesh*** [2017 (4) KLT 415 (SC)]; wherein it is held that, it is the convenience of the woman and children that have to be looked into while ordering the transfer of a case from one Court to another. The law is quite categorical, and the wife's convenience has to be looked into while deciding a petition for transfer.

8. Hence, considering the comparative hardship of the wife which has to be given due weightage, when compared to that of the



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husband, and in this case, the petitioner is the wife/lady with disability of more than 60%, which is evidenced by the certificate of the Medical Board. Therefore, I deem it appropriate to allow this transfer petition.

In the result, Tr.P.C.No.439 of 2024 is allowed, withdrawing O.P.No.843 of 2024 pending before the Family Court, Thrissur and transferring it to the Family Court, Kozhikode. The Family Court, Thrissur, shall transfer the records to the Family Court, Kozhikode, immediately. The parties are directed to appear before the Family Court, Kozhikode, on 20.03.2025.

Sd/-
BASANT BALAJI,
JUDGE



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APPENDIX OF TR.P(C) 439/2024

PETITIONER ANNEXURES

Annexure 1 TRUE COPY OF AFFIDAVIT PETITION AS I.A. NO. 2/2024
IN O.P. (CIVIL) NO. 843/2024 PENDING BEFORE THE
FAMILY COURT, THRISSUR

RESPONDENT EXHIBITS

Exhibit R1(a) TRUE COPY OF THE ORIGINAL PETITION.NO.843/2024
FILED BEFORE THE TRISSUR FAMILY COURT DATED
23/05/2024

Exhibit R1(b) series TRUE COPY OF THE HONORABLE HIGH COURT INTERIM ORDER
DATED 28/02/2023 AND E-COURTS STATUS OF TRIAL
COURT

PETITIONER ANNEXURES

Annexure 2 TRUE COPY OF THE DISABILITY CERTIFICATE DATED
23.02.2007 BY THE DEPARTMENT OF HEALTH SERVICES,
GOVERNMENT OF KERALA

Annexure 3 TRUE COPY OF PHOTOGRAPH DEPICTING THE PRESENT
PHYSICAL SITUATION OF THE PETITIONER

Annexure 4 TRUE COPY OF THE FIR NO. 932/ 2023 OF NEDUPUZHA
POLICE STATION DATED 25.12.2023 REGISTERED BY
THRISSUR CITY POLICE

Annexure 5 TRUE COPY OF THE FIR NO.65/2025 OF MEDICAL COLLEGE
POLICE STATION DATED 21.01.2025 REGISTERED BY
KOZHIKODE CITY POLICE