



2025:KER:13722

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BASANT BALAJI

TUESDAY, THE 18<sup>TH</sup> DAY OF FEBRUARY 2025 / 29TH MAGHA, 1946

TR.P(C) NO. 525 OF 2024

AGAINST THE ORDER/JUDGMENT IN OP NO.568 OF 2024 OF  
FAMILY COURT, TIRUR ARISING OUT OF THE ORDER/JUDGMENT DATED IN  
OP NO.622 OF 2024 OF FAMILY COURT, TIRUR

PETITIONER:

V.VICTORIA  
AGED 71 YEARS  
W/O PRABHAKARAN, 52/3773, PRAVI NILAYAM, KUMARANASAN  
ROAD, KALOOR, KOCHI, PIN - 682017

BY ADVS.  
SIKHA G.NAIR  
S.ARATHY MENON  
SUSMITHA G.

RESPONDENT:

K. PRABHAKARAN  
AGED 73 YEARS  
NOW RESIDING AT GOVINDA NILAYAM, IRIMBILIYAM  
P.O., VALANCHERY, MALAPPURAM., PIN - 679572

BY ADVS.  
AASHIQUE AKTHAR HAJJIGOTHI  
FAVAD PATHOOR(K/000391/2018)

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 18.02.2025, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:



2025:KER:13722

**ORDER**(Dated this the 18<sup>th</sup> day of February, 2025)

The petitioner is the respondent in O.P. No. 568/2024 and O.P. 622/2024 on the file of the Family Court, Tirur. The marriage was solemnized on 06.01.1992 according to Hindu Religious Customs and ceremonies. O.P. No. 568/2024 is filed for declaration of title to the property, and O.P No. 622/2024 is for divorce.

2. The petitioner being the wife seeks transfer on the ground that she lives at Ernakulam in the property, where the declaration is sought for. The respondent also lives within the jurisdiction of Ernakulam Court. The petitioner has got a case that they were residing together at Ernakulam and the respondent deserted her from January 2023 onwards.

3. The petitioner is suffering from back pain and other age related ailments. She has no source of income, and she is not in a position to travel to Tirur to attend the



2025:KER:13722

case at the Family Court. Moreover, the respondent is an Ex-servicemen who is having a pension of Rs. 50,000/-. Therefore, she seeks a transfer.

4. A counter affidavit is filed by the respondent wherein the averments in the transfer petition are denied. It is stated in the counter affidavit that the respondent is suffering from so many illnesses such as bowel cancer, kidney disease, hernia and heart disease also. The respondent has undergone five major surgeries in the last three years. He is undergoing treatment in Perinthalmanna, Malappuram and therefore, he is cannot travel without the help of a bystander. Petitioner is the permanent resident of Tirur and the transfer petition is filed only to harass him. Respondent has produced Annexure R1(a) to R1(c), medical certificates, which were adduced as evidence to prove that he is undergoing treatment.

5. Parties have been sent before mediation, and the mediation was failed. It is seen from the cause title that the petitioner is aged 71 years and the respondent is aged



2025:KER:13722

73 years. Two cases are pending before the Family Court, Tirur, filed by the respondent for divorce as well as for declaration of the title to the property. Taking into consideration the petitioner is an aged lady of 71 years and the decisions of the Apex 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.Sridahar Vishwanath Jagtap**[AIR 2016 SC 3584] and **Santhini V.Vijaya Venkatesh** [2017 (4) KLT 415(SC)]; wherein it was held that, in matrimonial disputes, the prior consideration is to the convenience of the wife. From the facts of this case, even though both the parties are more than 70 years the petitioner being a lady comparative hardship is more for her.

7. Hence, in the result, the Transfer Petition is allowed. O.P. No. 568/2024 and O.P No. 622/2024 pending before the Family Court, Tirur, are withdrawn and transferred to the Family Court, Ernakulam. The Family Court, Tirur, shall immediately transfer the records to the Family Court,



2025:KER:13722

Ernakulam. Taking into consideration, the age of the respondent and also the medical certificate produced from his side, I deem it appropriate to exempt the personal appearance of the respondent before the Family Court except for taking evidence. The parties or the learned counsel appearing for the respondent are directed to appear on 18.03.2025 before the Family Court, Ernakulam on receipt of a copy of this order.

These Transfer Petitions is allowed as above.

Sd/-  
**BASANT BALAJI**  
**JUDGE**

saap



2025:KER:13722

**APPENDIX OF TR.P(C) 525/2024**

**PETITIONER ANNEXURES**

- |                    |                                                                                |
|--------------------|--------------------------------------------------------------------------------|
| <b>Annexure A1</b> | <b>TRUE COPY OF THE FORM NO.8 NOTICE IN<br/>O.P.568/2024 DATED 22.05.2024</b>  |
| <b>Annexure A2</b> | <b>TRUE COPY OF THE FORM NO.8 NOTICE IN O.P.<br/>622/2024 DATED 06.06.2024</b> |
| <b>Annexure A3</b> | <b>TRUE COPY OF THE AADHAR CARD NO.5218 9821<br/>1625 OF THE PETITIONER</b>    |

**RESPONDENT ANNEXURES**

- |                       |                                                             |
|-----------------------|-------------------------------------------------------------|
| <b>Annexure R1(a)</b> | <b>Ture copy of the medical report dated<br/>23.07.2024</b> |
| <b>Annexure R1(b)</b> | <b>True copy of the medical report dated<br/>04.07.2023</b> |
| <b>Annexure R1(c)</b> | <b>True copy of the medical report dated<br/>30.06.2023</b> |

//True copy//PA to Judge