

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 31<sup>ST</sup> DAY OF MAY 2022 / 10TH JYAISHTA, 1944

TR.P(C) NO. 658 OF 2021

AGAINST THE ORDER/JUDGMENT IN OP 856/2021 OF FAMILY  
COURT, ERNAKULAM

**PETITIONER/S:**

GINCY P.THAMBI  
AGED 34 YEARS  
D/O.P.G.THAMBI, PERINGHAT HOUSE, SOUTH BAZAR,  
KUNNAKULAM, THRISSUR DISTRICT, PIN - 680 503.

BY ADVS.  
C.A.CHACKO  
C.M.CHARISMA  
ALEKH THOMAS  
SHIBIN K.F.

**RESPONDENT/S:**

P. JOJU PETER  
AGED 41 YEARS  
S/O.P.K.PETER, PAZHUNNAN HOUSE, DESHABHIMANI ROAD,  
KALOOR, KOCHI - 682 017.

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 31.05.2022, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**ORDER**

The transfer petition is filed under Section 24 of the Code of Civil Procedure seeking to transfer O.P.No.856/2021 (Annexure A4) from the Family Court, Ernakulam to the Family Court, Thrissur.

2. The petitioner's case, in brief, in the memorandum of transfer petition is that; she has filed M.C.No.489/2020 (Annexure A1) seeking an order of maintenance for herself and her minor son before the Family Court, Thrissur. The respondent had filed O.P. No.2202/2020 (Annexure A2) before the Family Court, Ernakulam, seeking a decree of divorce. The petitioner had earlier filed Tr.P(C) No.48/2021 before this Court, seeking to transfer Annexure A2 to the Family Court, Thrissur. This Court by Annexure A3 order allowed the transfer petition and transferred Annexure A2 to the Family Court, Thrissur. Immediately, thereafter, the respondent has filed Annexure A4 before the Family Court, Ernakulam, seeking a decree for restitution of conjugal

rights. The petitioner and her minor son are residing at Thrissur. She would be put to severe prejudice, if she is to contest Annexure A4 before the Family Court, Ernakulam. More over two cases between the parties are pending before the Family Court, Thrissur. Therefore, no prejudice would be caused to the respondent since he has to contest Annexure A1 and A2 before the Family Court, Thrissur. Hence, the transfer petition.

3. Even though notice has been served on the respondent, there is no appearance for him.

4. It is on record that Annexure A1 and A2 are pending before the Family Court, Thrissur. It is also evident that this Court had by Annexure A3 ordered the transfer of Annexure A2 from the Family Court, Ernakulam to the Family Court, Thrissur. It is thereafter that the respondent has filed Annexure A4. Thus the petitioner has established a case to transfer Annexure A4.

5. The law with respect to transfer of proceedings, particularly matrimonial disputes, is no longer res-integra,

in view of the categoric 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] and ***Santhini V. Vijaya Venkatesh*** [2017 (4) KLT 415 (SC)]. 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.

6. In the light of the uncontroverted averments on record, the totality of the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in the afore-cited decisions, I am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure.

In the result, I allow the transfer petition by ordering transfer of O.P. No.856/2021 from the Family Court, Ernakulam to the Family Court, Thrissur. The parties

would be at liberty to move the Family Court, Thrissur, seeking for consolidation and joint trial of all the proceedings between them. The Registry shall forward a copy of this judgment to the Family Court, Ernakulam with instructions to forthwith transmit the records in O.P. No.856/2021 to the Family Court, Thrissur. The Family Court, Thrissur shall, immediately on receipt of the records in O.P.No.856/2021, call the case along with Annexure A1 and A2.

Sd/-

**C.S.DIAS, JUDGE**

rkc/31.05.22

**APPENDIX OF TR.P(C) 658/2021**

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF M.C.NO.489/20 FILED BY PETITIONER BEFORE THE FAMILY COURT, THRISSUR.
Annexure A2	TRUE COPY OF O.P.NO.2202/20 FILED BY RESPONDENT BEFORE FAMILY COURT, ERNAKULAM.
Annexure A3	TRUE COPY OF ORDER IN TR.P(C) NO.48/2021 OF THIS HON'BLE COURT DATED 22/3/2021.
Annexure A4	TRUE COPY OF OP NO.856/2021 FILED BY RESPONDENT BEFORE FAMILY COURT, ERNAKULAM.