

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 31ST DAY OF OCTOBER 2022 / 9TH KARTHIKA, 1944

TR.P(C) NO. 606 OF 2022

OP 987/2021 OF FAMILY COURT, MAVELIKKARA

PETITIONER/RESPONDENT:

JUNIYA GEORGE
AGED 41 YEARS
D/O. GEORGE JOSEPH, RESIDING AT KAKKUZHIYIL HOUSE,
VARAPETTY KARA, VARAPPETTY VILLAGE,
KOTHAMANGALAM TALUK, ERNAKULAM DISTRICT-686 691

BY ADVS.
T.MADHU
C.R.SARADAMANI
SHAHID AZEEZ
RENJISH S. MENON
SUJESH J.MATHEW

RESPONDENT/PETITIONER:

PHILIP K.J.
AGED 44 YEARS
S/O. K.M.JOY, KATTOOR KIZHAKKATHIL @ KATTOOR KANDATHIL
HOUSE, THRIPPERUNTHURA VILLAGE, CHENNITHALA P.O.,
MAVELIKKARA TALUK, ALAPPUZHA DISTRICT-690 105

BY ADV B.RENJITH KUMAR

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The transfer petition is filed under Sec.24 of the Code of Civil Procedure, seeking to transfer O.P. No.987/2021 (Annexure A1) from the Family Court, Mavelikkara to the Family Court, Muvattupuzha.

2. The petitioner's case, in brief, in the memorandum of transfer petition is that, she is the wife of the respondent. They have a five year old son born in their wedlock. The marital relationship is strained. The respondent has refused to maintain the petitioner and the child. The petitioner and child filed M.C. No.73/2021 (Annexure A2) before the Family Court, Muvattupuzha, against the respondent for an order of maintenance. The respondent is contesting the said proceeding before the Family Court, Muvattupuzha. Therefore, no inconvenience would be caused to the respondent, if Annexure A1 is

transferred. Hence the transfer petition.

3. Heard.

4.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** [2002 KHC 1889], **Mona Aresh Goel V. Aresh Satya Goel** [2000 KHC 1835], **Vaishali Shridhar Jagtap V. Shridhar Vishwanath Jagtap** [2016 KHC 6489], **Santhini V. Vijaya Venkatesh** [2017 (5) KHC 48] and **Aiswarya N.C.V. v. A.S. Saravana Karthik Sha** [2022 (5) KHC 185(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.

5. In the light of the law laid down in the afore-cited decisions, the uncontroverted pleadings and materials on record, the totality of the facts and circumstances of the

case, particularly the fact that Annexure A2 is already pending before the Family Court, Muvattupuzha, and the respondent is contesting the proceeding before the said court, I am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure and order the transfer of Annexure A1, so that the cases can be consolidated and jointly tried, which would save precious judicial time and avoid conflict of decisions.

In the result, I allow the transfer petition as follows:-

(i) O.P No.987/2021 is transferred from the Family Court, Mavelikkara to the Family Court, Muvattupuzha.

(ii) The parties would be at liberty to move the Family Court, Muvattupuzha and seek for the consolidation and joint trial of all the cases between them.

(iii) The Registry shall forward a copy of this order to the Family Court, Mavelikkara with instructions to forthwith transmit the records in Annexure A1 to the Family Court, Muvattupuzha.

(iv) The Family Court, Muvattupuzha shall, immediately on the receipt of the records in Annexure A1, post the case along with Annexure A2.

Sd/-

C.S.DIAS, JUDGE

rmm/31/10/2022

APPENDIX OF TR.P(C) 606/2022

PETITIONER ANNEXURES

Annexure A1 THE TRUE COPY OF THE PETITION IN OP
NO.987/2021 ON THE FILES OF THE FAMILY
COURT, MAVELIKKARA.

Annexure A2 THE TRUE COPY OF THE PETITION IN MC
NO.73/2021 ON THE FILES OF THE FAMILY
COURT, MUVATTUPUZHA.