

Vijayakumar M Vs SATHIDEVI A.L

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Court : Kerala

Decided On : Mar-19-2025

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : Tr.P(C)/645/2024

Appellant : Vijayakumar M

Respondent : Sathidevi a.L

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA,
1946 TR.P(C) NO. 628 OF 2024 TO TRANSFER OPDIV NO.162 OF
2023 OF FAMILY COURT, VADAKARA PETITIONER/S:
VIJAYAKUMAR M, AGED 55 YEARS S/O VELAYUDHAN NAIR ,
MULIYIL(HO), PANDHIRAKAV P.O, KOZHIKODE DISTRICT, PIN -
673019 BY ADVS.P.V.ANOOP PHIJO PRADEESH PHILIP ABIN
BENNY ANJU R S. K C MOHAMED RASHID RESPONDENT/S:
SATHIDEVI A.L,AGED 51 YEARS S/O APPUTTI NAIR, SHRUTHI
HOUSE, MEPPAYOOR P.O, KOZHIKODE DISTRICT, PIN - 673524 BY
ADVS. PUSHPARAJAN KODOTH K.JAYESH

MOHANKUMAR(K/2535/1999) VANDANA MENON(K/153/2007) VIMAL VIJAY(K/000214/2018) VINAYAK MANOHARAN P.(K/001679/2024) THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19.03.2025, ALONG WITH Tr.P(C).645/2024, 761/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA,
1946 TR.P(C) NO. 645 OF 2024 AGAINST THE ORDER/JUDGMENT
DATED IN OPDIV NO.434 OF 2023 OF FAMILY COURT,KOZHIKODE
PETITIONER/S: VIJAYAKUMAR M, AGED 55 YEARS, S/O
VELAYUDHAN NAIR , MULIYIL(HO), PANDHIRAKAV P.O,
KOZHIKODE DISTRICT, PIN - BY ADVS.P.V.ANOOP PHIJO
PRADEESH PHILIP ABIN BENNY ANJU R S. K C MOHAMED RASHID
RESPONDENT/S:

SATHIDEVI A.L,AGED 51 YEARS S/O APPUTTI NAIR, SHRUTHI
HOUSE, MEPPAYOOR P.O, KOZHIKODE DISTRICT, PIN - 673524 BY
ADVS. PUSHPARAJAN KODOTH K.JAYESH
MOHANKUMAR(K/2535/1999) VANDANA MENON(K/153/2007) VIMAL
VIJAY(K/000214/2018) VINAYAK MANOHARAN P.(K/001679/2024)
THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.03.2025, ALONG WITH Tr.P(C).628/2024 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA,
1946 TR.P(C) NO. 761 OF 2024 AGAINST THE ORDER/JUDGMENT

DATED IN OP NO.424 OF 2023 OF FAMILY COURT, MALAPPURAM
PETITIONER/S: SATHIDEVI A.L, AGED 52 YEARS, D/O APPUTTY
NAIR, 'SRUTHI' (H), MEPPAYUR PO, KOZHIKODE (WITHIN THE
JURISDICTION OF PAYYOLI POLICE STATION.), PIN - 673524 BY
ADVS. K.JAYESH MOHANKUMAR PUSHPARAJAN KODOTH
VANDANA MENON VIMAL VIJAY VINAYAK MANOHARAN P.
RESPONDENT/S: VIJAYAKUMAR M, S/O VELAYUDHAN NAIR,
MULIYIL (H) PANTHEERAKAVU PO, KOZHIKODE (WITHIN THE
JURISDICTION OF PANTHEERAKAVU POLICE STATION.), PIN -
673019 THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.03.2025, ALONG WITH Tr.P(C).628/2024 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA,
1946 TR.P(C) NO. 764 OF 2024 AGAINST THE ORDER/JUDGMENT
DATED IN OP NO.434 OF 2023 OF FAMILY COURT,KOZHIKODE
PETITIONER/S: SATHIDEVI A.L.,AGED 52 YEARS D/O APPUTTY
NAIR, 'SRUTHI' (H), MEPPAYUR PO, KOZHIKODE (WITHIN THE
JURISDICTION OF PAYYOLI POLICE STATION.), PIN - BY ADVS.
K.JAYESH MOHANKUMAR PUSHPARAJAN KODOTH VANDANA
MENON VIMAL VIJAY VINAYAK MANOHARAN P. RESPONDENT/S:
VIJAYAKUMAR M.,AGED 56 YEARS S/O VELAYUDHAN NAIR,
MULIYIL (H) PANTHEERAKAVU PO, KOZHIKODE (WITHIN THE
JURISDICTION OF PANTHEERAKAVU POLICE STATION.), PIN -
673019 THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.03.2025, ALONG WITH Tr.P(C).628/2024 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

ORDER

(Dated this the 19th day of March 2025) [Tr.P(C) Nos.628/2024, 645/2024, 761/2024 and 764/2024] The petitioner in Tr.P.C.Nos.628 and 645 of 2024 is the husband and in Tr.P.C.Nos.761 and 764 of 2024 is the wife. (In all these Petitions, since the parties are one and the same, heard together and a common order is passed.)

2. Tr.P.C. No.761 of 2024 is taken as a leading case for

convenience and the facts are as follows: The marriage between the parties was solemnized on 11.2.1996 and two children are born out of their wedlock. The children are under the care of the wife. The husband is working abroad. When the marital relationship between the parties got strained, the wife filed O.P.No.162 of 2023 before the Family Court, Vadakara seeking divorce and O.P.No.424 of 2023 before the Family Court, Malappuram for partition of joint property belonging to the parties. O.P.No.434 of 2023, which is a divorce petition filed by the husband is pending before the Family Court, Kozhikode.

3. Tr.P.C.Nos.764 and 761 of 2024 are filed by the

wife to transfer O.P.No.434 of 2023 pending before the Family Court, Kozhikode to the Family Court, Vadakara and O.P.No.424 of 2023 pending before the Family Court, Malappuram to the Family Court, Vadakara respectively. The husband filed Tr.P.C.Nos.628 and 645 of 2024, to transfer O.P. (Div.) No.162 of 2023 from the Family court, Vadakara and O.P.No.434 of 2023 from the Family Court, Kozhikode to the Family Court, Malappuram.

4. Heard.

5. The petitioner contends that she is not in a position

to travel from her residence at Vadakara to Malappuram for each posting, since the distance is more than 90 kms. and time for travel is around 3 hrs on one side. Moreover, she is suffering from age related health issues and there is nobody to

accompany her. Hence, she wants transfer of the cases as mentioned above.

6. The husband, on the other hand, vehemently

opposed to the transfer contending that both the parties are residents of Kozhikode. She filed one petition before the Family Court, Vadakara and another in Malappuram at her convenience. Out of the three cases, which arose between the parties, one is pending before the Family Court, Vadakara and another before the Family Court, Malappuram. Only one case, filed by the wife, is pending before the Family Court, Kozhikode and hence, he seeks the transfer of above cases.

7. 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)] held that, in matrimonial disputes, the

prior consideration is to the convenience of the wife and in such cases the transfer has been effected. Thus, in the light of the law laid down by the Honble Supreme Court in the afore cited decisions and considering the comparative hardship of the wife, I am inclined to dispose of these Transfer Petitions as follows:

(i) Tr.P.C.Nos.628 of 2024 and 645 of 2024 are dismissed.

(ii) Tr.P.C.Nos.761 and 764 of 2024 are allowed,

transferring O.P.No.424 of 2023 from the Family Court, Malappuram and O.P.No.434 of 2023 from the Family Court, Kozhikode, to the Family Court, Vadakara. The transferor courts shall immediately transfer the records to the Family Court, Vadakara, and the Family Court, Vadakara shall, upon receipt of the records, dispose of the cases in accordance

with law. The parties are directed to appear before the Family Court, Vadakara on 29.04.2025. Sd/- BASANT BALAJI JUDGE

d/ APPENDIX OF TR.P(C) 645/2024 PETITIONER ANNEXURES Annexure A TRUE COPY OF THE PETITION IN OP NO. 434 OF 2023 FILED BY THE PETITIONER AGAINST RESPONDENT DATED 10.03.2023 BEFORE THE FAMILY COURT, KOZHIKODE Annexure B TRUE COPY OF THE PETITION IN OP NO. 162 OF 2023 FILED BY THE RESPONDENT AGAINST THE PETITIONER DATED 17.02.2023 BEFORE THE FAMILY COURT, VADAKARA Annexure C TRUE COPY OF THE PETITION IN OP NO. 424 OF 2023

FILED BY THE RESPONDENT AGAINST PETITIONER DATED 12.04.2023 BEFORE THE FAMILY COURT, MALAPPURAM APPENDIX OF TR.P(C) 761/2024

PETITIONER ANNEXURES Annexure A A TRUE COPY OF PETITION IN OP 424/2023 BEFORE THE FAMILY COURT, MALAPPURAM DATED 12.04.2023 FILED BY THE PETITIONER APPENDIX OF TR.P(C) 764/2024 PETITIONER ANNEXURES Annexure A A TRUE COPY OF PETITION IN OP 434/2023 FILED BY THE RESPONDENT ON THE FILE FAMILY COURT, KOZHIKODE DATED 10.03.2024 APPENDIX OF TR.P(C) 628/2024 PETITIONER ANNEXURES Annexure A TRUE COPY OF THE PETITION IN OP NO. 162 OF 2023 FILED BY THE RESPONDENT AGAINST THE PETITIONER DATED 17.02.2023 BEFORE THE FAMILY COURT, VADAKARA Annexure B TRUE COPY OF THE PETITION IN OP NO. 424 OF 2023 FILED BY THE RESPONDENT AGAINST PETITIONER DATED 12.04.2023 BEFORE THE FAMILY COURT, MALAPPURAM

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