

Akhila Surendran vs Vineeth. V

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Court : Kerala

Decided On : Mar-21-2025

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : Tr.P(C)/825/2024

Appellant : Akhila Surendran

Respondent : Vineeth. V

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
FRIDAY, THE 21ST DAY OF MARCH 2025 / 30TH PHALGUNA, 1946
TR.P(C) NO. 825 OF 2024 TO TRANSFER OPHMA NO.1584 OF 2024
OF FAMILY COURT, MAVELIKKARA PETITIONER/S: AKHILA
SURENDRAN AGED 33 YEARS D/O SURENDRAN, VALEYATHU
PADINJARETHARA HOUSE KOLLA P.O, KARUNAGAPALLI,
KOLLAM ., PIN - 690536 BY ADV KRISHNANUNNI G.B.
RESPONDENT/S: VINEETH. V AGED 36 YEARS S/O VIJAYAN,
SUSEELALAYAM (H), CHATHIYARA P.O, THAMARAKKULAM,
MAVELIKARA, ALAPUZHA., PIN - 690530 BY ADVS. S.K. SAJI
MAYAMOL T.S.(K/1727/2001) G.R.MANJU(K/2072/1999) THIS

TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

(Dated this the 21st day of March 2025) The petitioner is the wife, and the respondent herein is the husband. The petitioner seeks the transfer of O.P(HMA) No.1584/2024, filed by the respondent husband, on the files of Family Court, Mavelikkara to the Family Court, Chavara.

2. The marriage between the petitioner and the

respondent was solemnized on 31.03.2013, at Vettimukku Sreekrishna Swamy Temple, Kollam District as per rites and rituals prevailing in Hindu religion. It is submitted that the respondent and his family misappropriated the gold ornaments given to the petitioner at the time of her marriage. When the marital relationship got strained, alleging cruelty from the side of the respondent and his family, the petitioner preferred a complaint before the Judicial Magistrate First Class Court, Chavara and the proceedings are pending therein. While so,

the respondent filed OP(HMA) 1584/2024 before the Family Court, Mavelikkara for divorce under the Hindu Marriage Act. Thereafter the petitioner, in order to get her gold ornaments back, filed OP (others) No.855 of 2024 before the Family Court, Chavara. The petitioner is depending on her parents for her financial needs and hence, she has no necessary finance or support to travel long distance to contest the case at Family Court, Mavelikkara. Therefore, the petitioner seeks the transfer of OP(HMA) 1584/2024 filed by the respondent herein pending before the Family Court, Mavelikkara, to the Family Court, Chavara, where OP (others) No.855 of 2024, filed by the petitioner is pending.

3. Though respondent appears, no counter is seen filed.

4. 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, and in such cases, a transfer has been effected. Thus, in the light of the uncontroverted averments in the memorandum of transfer petition and the law laid down by the Supreme Court in the afore-cited decisions as well as the fact that the O.P. filed by the petitioner is pending before the Family

Court, Chavara, I am inclined to allow this transfer petition. In the result, this Tr.P.C. is allowed, withdrawing OP(HMA) 1584/2024 before the Family Court, Mavelikkara, and transferring it to the Family Court, Chavara. The Family Court, Mavelikkara, shall transfer the records to the Family Court, Chavara, immediately and upon receipt of the records, the Family Court, Chavara shall dispose of the case in accordance with law. The parties are directed to appear before the Family Court, Chavara on 30.4.2025. Sd/- BASANT BALAJI JUDGE

d// APPENDIX OF TR.P(C) 825/2024 PETITIONER ANNEXURES Annexure 1 THE TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVARA WHICH IS NUMBERED AS CMP 1791/2024 IN THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVARA Annexure 2 TRUE COPY OF THE SAID FIR CONTAINING FIR NO. Annexure 3 TRUE COPY OF THE NOTICE RECEIVED FROM THE HONOURABLE FAMILY COURT,

MAVELIKARA Annexure 4 THE TRUE COPY OF ORIGINAL PETITION
NUMBERED OP(OTHERS) 855/2024 IN THE FILES OF THE HONOURABLE
FAMILY COURT, CHAVARA

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