

**Babumon vs Sini**

**Babumon vs Sini**

**SooperKanoon Citation :** [sooperkanoon.com/1286298](https://sooperkanoon.com/1286298)

**Court :** Kerala

**Decided On :** Jul-30-2024

**Judge :** Honourable Mr.Justice Viju Abraham

**Appeal No. :** Tr.P(C)/32/2024

**Appellant :** Babumon

**Respondent :** SINI

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM  
TUESDAY, THE 30TH DAY OF JULY 2024 / 8TH SRAVANA, 1946  
TR.P(C) NO. 32 OF 2024 AGAINST THE ORDER/JUDGMENT DATED  
IN OPGW NO.1706 OF 2023 OF FAMILY COURT, NORTH PARAVUR  
PETITIONER: BABUMON AGED 50 YEARS S/O SRI. POULOSE,  
CHIRAKKAL VEEDU, CHITHIRAPURAM, CHITHIRAPURAM, P.O,  
IDUKKI DISTRICT, NOW RESIDING AT KSEB QUARTERS G-9A  
CHITHIRAPURAM. PIN 685565, PIN - BY ADVS. T.M.RAMAN KARTHA  
MANJULA NAIR M.S.SOUJATH REVATHY M.A. GREESHMA T.G.  
SNEHA BRIGIT PRINCE RESPONDENT: SINI AGED 50 YEARS, D/O  
SRI THANKAPPAN, ELLUMPARAMBIL VEEDU, PUTHUKKAADU

THATTAMPADI, KARUMALLOOR KARA, KARUMALLOOR VILLAGE,  
ERNAKULAM DIST. PIN 688537, PIN - 688537 BY ADV  
UDAYAKUMARY C K THIS TRANSFER PETITION (CIVIL) HAVING  
BEEN FINALLY HEARD ON 30.07.2024, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING: Tr.P(C).No.32 of 2024 2 CR

**VIJU ABRAHAM, J.**

----- Tr.P(C).No.32 of 2024 ----- Dated  
this the 30th day of July, 2024

## **ORDER**

The above Transfer Petition is filed seeking transfer of OP(G&W) No.1706/2023 on the file of the Family Court, Paravur to the Family Court, Thodupuzha.

2. The petitioner is the respondent in OP (G&W)No.1706 of 2023 on the file of the Family

Court, Paravur. The marriage of the parties was solemnized on 6.11.2003 and in the said wedlock 2 sons and one daughter were born to them. It is averred that the early days of the marriage were peaceful, later on, the respondent began exhibiting signs of mental abnormalities and she continuously showed an arrogant attitude even towards the children and never expressed any love or affection towards them. Later she left home without informing the children. Thereafter, the respondent had filed a petition as OP(C) No.2471/2021 before the Family Tr.P(C).No.32 of 2024 3 Court, Ernakulam praying for a declaration that she is the permanent guardian of the minor children. The above Original Petition filed as OP (C) No.2471/2021 was transferred to the newly formed Family Court at North Paravur and got renumbered as OP (G&W)No.1706/2023 and the matter is now pending consideration.

3. Petitioner contends that he along with his minor children are residing at KSEB Quarters in Chithirapuram. The minor children are studying at the Govt. High School, Munnar in 9th and 7th standard

respectively. Since the children are permanently residing at Chithirapuram in Idukki District, the Family Court, North Paravur has no jurisdiction to entertain the petition for their permanent custody and guardianship and if the original petition is transferred to Family Court Thodupuzha it will be very convenient for him and the children for making

appearance in the court. It is in the said circumstance, the petitioner has sought for transfer of OP(G&W)No.1706/2023 from Family Court, Paravur to Family Court, Thodupuzha.

Tr.P(C).No.32 of 2024

4

4.

Resp

stating that it had been filed before the proper forum and that the wife's convenience should be taken into consideration while considering an application for transfer.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. Admittedly, the children are residing along

with the petitioner at KSEB Quarters, Chithirapuram and they are studying in 9th and 7th standard respectively in Government High School, Munnar. Section 9 of The Guardians and Wards Act, 1890, deals with the court having jurisdiction to entertain an application under the said Act, which reads as follows: 9. Court having jurisdiction to entertain application.-(1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides. Tr.P(C).No.32 of 2024 5

(2) If the application is with respect to the

guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the

guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction. (underline supplied)

Going by Section 9 of The Guardians and Wards Act, 1890 Act any application with respect to the guardianship of the person of the minor shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

7. The Division Bench of this Court in Madhu Rajendra Prasad Nair v. Sreelatha Baskaran Pillai, 2017 (4) KLT 718 has held that the solitary test for determining jurisdiction of the family court over a Tr.P(C).No.32 of 2024 6 ward is the ordinary residence of the minor. This Court in Biny Kuriakose v. Joseph Sebastian, 2022

(4) KLT OnLine 1257 has observed that while

considering a transfer petition

proceedings, necessarily the children will have to be produced before the court. Admittedly, the minors are residing in the jurisdiction of the Family Court, Thodupuzha, and going by the mandate of Section 9 of the Guardians and Wards Act, 1890, I am of the opinion that the convenience of the children has to be given preference. The convenience of the wife cannot be a reason to decline the present request for transfer of the case, in the light of the specific mandate in Section 9 of The Guardians and Wards Act, 1890. In the above-said circumstance, I am of the opinion that OP(G&W)No.1706/2023 could be ordered to be transferred from Family Court, Paravur to Family Court, Thodupuzha. Therefore, the above transfer petition is allowed, withdrawing OP(G&W) No.1706 of 2023 from

Tr.P(C).No.32 of 2024

7the file of t

trial and disposal. sd/- VIJU ABRAHAM,JUDGE pm Tr.P(C).No.32 of 2024 8  
APPENDIX OF TR.P(C) 32/2024 PETITIONER'S EXHIBITS Exhibit P1 A TRUE  
COPY OF OP(G&W) NO. 1706/2023 OF THE FAMILY COURT, NORTH

PARAVUR (O.P NO.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**