

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

RP.No. 1013 of 2014

ORDER IN T.P(C) 499/2014 DATED 07-11-2014

REVIEW PETITIONER/RESPONDENT:

**K. A. NASH, AGED 44 YEARS
S/O K.V ANIRUDDAN, WIN TRUST PHARMA DISTRIBUTORS
MARUTHANKUZHI, KANJIRAMPARA P.O
THIRUVANANTHAPURAM 695001
PERMANENTLY RESIDING AT KAVANIYATTIL HOUSE
ELANTHIKKARA P.O, ERNAKULAM 682081**

**BY ADVS.SRI.GOPAKUMAR R.THALIYAL
SRI.R.B.RAJESH**

RESPONDENT/PETITIONER:

**REKHA, AGED 42 YEARS,
D/O RAMA GOWDA, PRESENTLY WORKING AS GYNAECOLOGIST
MATTANNOOR MISSION HOSPITAL, THALASSERY ROAD
MATTANNOOR, PRESENTLY RESIDING AT DOOR NO 2034
K. BLOCK, KUVEMPU NAGAR, MYSORE 570023**

R BY ADV. SRI.G.SREEKUMAR (CHELUR)

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 14-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SCL

P. BHAVADASAN, J.

R.P. No.1013 of 2014
in
Tr.P.C No. 499 of 2014

Dated this the 14th day of January, 2015.

ORDER

This is a petition filed under Order XLVII Rule 1 of the Code of Civil Procedure, seeking to have the order dated 7.11.2014 in Tr.P.(C) No.499 of 2014 reviewed.

2. Transfer Petition No.499 of 2014 was filed by the respondent herein seeking to have O.P.No.1749 of 2010 pending before Family Court, Thiruvananthapuram transferred to Family Court, Thalassery. The facts have been stated in detail in the order dated 7.11.2014. When the matter came up for hearing, this Court noticed that even though the notice was served on the respondent, there was no appearance for him. Since, there was no objection for the plea of transfer on the part of the respondent, this Court allowed the petition and directed to transfer O.P.No.1749 of 2010 pending before the Family Court, Thiruvananthapuram to the Family Court, Thalassery.

3. In this review petition, it is pointed out that when notice was sent to the petitioner, he was out of station and when he came to know about the same, he approached the counsel and 8.11.2014

and engaged him by executing a vakalath. It is claimed that the vakalath was filed on 10.11.2014. Later, he came to know that the transfer petition had already been disposed of.

4. In this review petition, it is pointed out that the evidence in this case was over and the matter was posted for hearing and the same was not revealed to this Court, when the original petition was heard.

5. It is also pointed out that now the matter is posted for hearing and the presence of the parties in the Family Court will not be necessary and no hardship and inconvenience exists and transfer is not warranted. It is noted that it will extremely difficult for the petitioner in the review petition, if the original petition is transferred to Thalassery at the fag end of the case.

6. The learned counsel pointed out that in fact the case was posted for hearing when the transfer petition was allowed. It is not brought to the notice of this Court that the evidence had already been over.

7. The learned counsel appearing for the respondent pointed out that the transfer can be made at any stage of proceedings and there is no ground to recall earlier order dated 7.11.2014.

8. Transfer is not granted for mere asking. It is true that

usually when a plea is made for transfer by the wife, the court is considerate. The court takes into consideration the inconvenience and the difficulties caused to the lady especially when she has to travel to a distant place. It is all the more onerous, when she is in financial difficulty or there is nobody to accompany her. The court has also taken into consideration the possibility of lady having to stay over unfamiliar place also. But mere distance by itself is not a ground for transfer. In the case on hand, it was not revealed to this court at the time of hearing of transfer petition that the evidence was already over and the case was posted for hearing at the relevant time.

9. Now that the evidence is over and the case stands posted for hearing, the presence of the petitioner before the Family Court will not be necessary. She can contact the counsel appearing for her over telephone. At any rate she will not have to travel frequently.

In the above reason, this review petition is allowed. Order dated 7.11.2014 is reviewed and the transfer petition stands dismissed.

Sd/-
P. BHAVADASAN
JUDGE

Scl.