

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

Tr.P(C).No. 147 of 2014

**TRANSFER O.P.NO. 88/2014 OF FAMILY COURT, KOZHIKODE TO THE FAMILY COURT,
MALAPPURAM**

PETITIONER(S)/RESPONDENTS IN OP :

- 1. JAMES JAYARAJ,
RAJVILLA, MELEKKOM, KARUVAMBRAM P.O., MANJERI,
MALAPPURAM.**
- 2. LINDA JAMES, AGED 70 YEARS,
W/O.JAMES JAYARAJ, RAJVILLA, MELEKKOM,
KARUVAMBRAM P.O., MALAPPURAM**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SMT.D.S.THUSHARA
SRI.H.PRAVEEN (KOTTARAKARA)**

RESPONDENT(S)/PETITIONER IN OP :

**SANGEETHA R.NAIK, AGED 33 YEARS,
D/O.RAMATHAN NAIK, 6TH B ISWARYA VERTICAL LINE,
PO KOMMERI, GOVINDAPURAM, KOZHIKODE-16.**

**BY ADVS. SRI.S.K.SAJU
SRI.A.RANJITH NARAYANAN**

**THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNEXURE A1: TRUE COPY OF THE ORDER IN OP 758/2008 DATED 18.03.2009.

**ANNEXURE A2: TRUE COPY OF THE ORIGINAL PETITION NO.88/014 FILED BY
 THE RESPONDENT BEFORE THE FAMILY COURT, KOZHIKODE.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P. BHAVADASAN, J.

Tr.P.(C). No. 147 of 2014

Dated this the 6th day of January, 2015.

ORDER

This is a petition filed under Section 24 of the Code of Civil Procedure seeking transfer of O.P. 88 of 2014 from Family Court, Kozhikode to Family Court, Malappuram.

2. The petitioners are grand parents of a child born to the respondent and the son of the petitioners who is no more. The marital relationship between the petitioners' son and the respondent was put an end to by Annexure A1 wherein it is mentioned that the child is to continue to live with the son of the petitioner.

3. Suffice to say that both persons have remarried and it is also stated that the petitioner's son had another child in the second marriage.

4. Learned counsel for the petitioners points out that the petitioners are far too advanced in age and it is

extremely difficult for them to go over to Kozhikode along with the child who is at present 12 years of age and is studying in 6th standard to attend the court on all posting dates. Relying on the clause in Annexure 1, it is also pointed out that the understanding was that the child would continue to stay with the child's father even after separation of the parties.

5. It is pointed out by the learned counsel for the petitioners that considering the difficulties faced by the petitioners due to their advanced age, the transfer as prayed for may be granted.

6. Learned counsel for the respondent relying on a decision reported in *Vasu v. Muralidharan* (2009 (1) K.L.T. 480) contended that the Family Court, Kozhikode alone has jurisdiction to try the matter since the mother alone is alive and she is at Kozhikode. The father is no more.

7. The decision relied on by the learned counsel for the respondent relates to the jurisdiction of the court

concerned and the petitioners have no case that the court at Kozhikode has no jurisdiction. Their only grievance is that they are far too advanced in age and they find it difficult to go over to Kozhikode to attend the court along with the child. It is the practical difficulty faced by them that has forced them to apply for transfer of the case from Kozhikode to Malappuram.

8. Considering all these facts, more so, considering the age of the petitioners, it is only proper that they be allowed to attend a court nearer to their place of residence.

For the above reasons, this petition is allowed, and O.P. 88 of 2014 pending before Family Court, Kozhikode shall stand transferred to Family Court, Malappuram. The parties shall appear before Family Court, Malappuram on 28.01.2015.

P. BHAVADASAN,
JUDGE

sb.