

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA , 1937

Tr.P(Crl.).No. 22 of 2015 ()

***(TO TRANSFER THE MC.NO. 50/2014 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, HARIPAD TO THE JUDICIAL FIRST CLASS
MAGISTRATE, KOTTAYAM) (CORRECTED)**

***NAME OF THE COURT " JUDICIAL FIRST CLASS MAGISTRATE-1"
OCCURRING IN THE TR.P.(CRL).NO.22/2015 IS CORRECTED AND
SUBSTITUTED AS "JUDICIAL FIRST CLASS MAGISTRATE-II" AS PER ORDER
DATED 30/3/2015 IN CRL.M.A.NO.2795/2015 IN TR.P(CRL).NO.22/2015**

PETITIONER(S)/RESPONDENTS:

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- 1. HAMSA M.A., AGED 46 YEARS,S/O. ALIKUTTY,
OTTAKANDATHIL HOUSE, VELOOR KARA,
KOTTAYAM TALUK.**
 - 2. SHEIKKUMMA @ MANGA, AGED 70 YEARS,W/O. ALIKUTTY,
OTTAKANDATHIL HOUSE, VELOOR KARA,
KOTTAYAM TALUK.**
 - 3. NAZAR, AGED 50 YEARS,S/O. ALIKUTTY,
OTTAKANDATHIL HOUSE, VELOOR KARA,
KOTTAYAM TALUK.**
 - 4. MUJEEB, AGED 36 YEARS,S/O. ALIKUTTY,
OTTAKANDATHIL HOUSE, VELOOR KARA,
KOTTAYAM TALUK.**
 - 5. REJINA, W/O. NAZAR,AGED 38 YEARS,
OTTAKANDATHIL HOUSE, VELOOR KARA,
KOTTAYAM TALUK.**
 - 6. BIJU, W/O. MUJEEB,AGED 33 YEARS,
OTTAKANDATHIL HOUSE, VELOOR KARA,
KOTTAYAM TALUK.**

BY ADV. SRI.T.HABDUL AZEEZ

RESPONDENT(S)/PETITIONERS:

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- 1. SHINI ALIAS SABEENA, AGED 31 YEARS,
D/O. SUBAIR, RESIDING AT OTTAKANDATHIL HOUSE,
VELOOR KARA, KOTTAYAM TALUK - 686 575.**

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2. HAJARA SULTHANA, MINOR, AGED 8 YEARS,
D/O. HAMSA, REPRESENTED BY HER MOTHER,
SHINI ALIAS SABEENA - 686 575.
3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R1 & R2 BY ADVS. SRI.T.MADHU
SRI.B.K.RAJAGOPAL

THIS TRANSFER PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 12-08-2015, ALONG WITH R.P.NO.666 OF 2015, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

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B.KEMAL PASHA, J.

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Tr.P.(Crl.).No.22 of 2015,
Tr.P.(C)Nos.58 & 177 of 2015

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Dated this the 1st day of July, 2015

ORDER

In Tr.P.(C) No.177 of 2015, the petitioner is seeking the transfer of O.P.No.575 of 2014 filed by the respondent against her before the Family Court, Kottayam at Ettumanoor to the Family Court, Mavelikkara, where the petitioner has filed O.P.No.399 of 2014. O.P.No.399 of 2014 has been filed by the petitioner in Tr.P.(C) No.177 of 2015 for the return of the gold ornaments, money etc. The respondent in Tr.P.(C) No.177 of 2015 has filed O.P.No.575 of 2014 before the Family Court, Kottayam at Ettumanoor for declaration of the title and for recovery of the possession of the property having an extent of 5 cents. According to the petitioner in Tr.P.(C) No.177 of 2015, she is residing at a place called Pathiyur Village at Kariyilakulangara, which is within the jurisdiction of Mavelikkara and she finds it difficult

to go to Ettumanoor for attending the O.P. filed by the respondent. The respondent in Tr.P.(C) No.177 of 2015 has filed Tr.P.(C)No.58 of 2015, seeking the transfer of O.P.No.399 of 2014 from the Family Court, Mavelikkara to the Family Court, Kottayam at Ettumanoor. Further, through Tr.P.(Crl.)No.22 of 2015, he seeks for the transfer of M.C.No.50 of 2014 pending before the Judicial First Class Magistrate's Court-II, Harippad to any of the courts at Kottayam.

2. Heard both sides.

3. The learned counsel for the respondent in Tr.P.(C) No.177 of 2015 stoutly opposes the transfer of the case as prayed for, by submitting that the petitioner in Tr.P.(C) No.177 of 2015 is still residing in Kottayam District. At the same time, the documents produced by the petitioner in the other Transfer Petition clearly reveal that the petitioner in Tr.P.(C) No.177 of 2015 is residing in Alappuzha District, within the jurisdiction of the Family Court, Mavelikkara. Considering

the fact that the petitioner in Tr.P.(C) No.177 of 2015 is a woman and on considering the distance between these two courts, this Court is of the view that it is just and convenient in the interest of justice to transfer O.P.No.575 of 2014 pending before the Family Court, Kottayam at Ettumanoor to the Family Court, Mavelikkara. The request put forwarded by the petitioner in Tr.P.(C) No.58 of 2015 and Tr.P.(Crl.) No.22 of 2015 cannot be allowed.

In the result, Tr.P.(C) No.177 of 2015 is allowed and O.P.No.575 of 2014 pending before the Family Court, Kottayam at Ettumanoor is transferred to the Family Court, Mavelikkara. Whereas, Tr.P.(C) No.58 of 2015 and Tr.P.(Crl.) No.22 of 2015 are dismissed.

Sd/-

B.KEMAL PASHA
JUDGE