

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

Tr.P(C).No. 585 of 2014

**TRANSFER OF OP (RECOVERY OF MONEY) 640/2014 OF FAMILY COURT, CHAVARA AT
KOLLAM TO THE FAMILY COURT, ALAPPUZHA.**
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PETITIONER(S):

- 1. V.N. SANKAR, AGED 70 YEARS,
RESIDING AT VEERAMANGALATH HOUSE, PANAVALLY P.O.,
PANAVALLY VILLAGE, CHERTHALA TALUK,
ALAPPUZHA DISTRICT.**
- 2. SATHY SANKAR, AGED 63 YEARS,
W/O. V.N.SANKAR, RESIDIN AT VEERAMANGALATH HOUSE,
PANAVALLY P.O., PANAVALLY VILLAGE, CHERTHALA TALUK,
ALAPPUZHA DISTRICT.**

BY ADV. SMT.TISSY ROSE K CHERIYAN

RESPONDENT(S):

**PARVATHY, AGED 28 YEARS,
D/O. SURAN, RESIDING AT MUNDAKATHIL HOUSE, MARU SOUTH,
ALUMKADAVU P.O., KARUNAGAPPALLY VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT - 690 573.**

**BY ADVS. SRI.ALAN PAPALI
SMT.O.V.BINDU
SRI.NISHIL P.S.**

**THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-03-2015, ALONG WITH TPC. 672/2014 & TPC. 673/2014, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Tr.P(C).No. 585 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: TRUE PHOTOCOPY OF THE O.P.(RECOVERY OF MONEY) NO.640/14
BEFORE THE FAMILY COURT, CHAVARA.**

**ANNEXURE A2: TRUE PHOTOCOPY OF THE OP(DIV.) NO.221/2014 FILED BEFORE THE
FAMILY COURT, ALAPPUZHA.**

**ANNEXURE A3: TRUE PHOTOCOPY OF THE O.P.(G&W) 526/2014 FILED BEFORE THE
FAMILY COURT, ALAPPUZHA.**

RESPONDENT(S)' ANNEXURES:

**ANNEXURE R1: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.4037/2014 DTD.16.12.2014 OF KARUNAGAPPALLY POLICE
STATION.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.BHAVADASAN, J.

Tr.P.(C) Nos. 585, 672 & 673 of 2014

Dated this the 04th day of March, 2015

ORDER

The husband and wife are at loggerheads. They did not lag behind in initiating proceedings against each other in different courts. Wife is the petitioner in Tr.P.(C) Nos.672/2014 and 673/2014 while the parents of the husband are the petitioners in Tr.P.(C) No. 585/2014.

2. There are altogether five proceedings as of now between the parties; three by the wife and two by the husband. The wife instituted proceedings as O.P.No.640/2014 for return of money against the husband and parents and 237/2014 for maintenance before the Family Court, Chavara. She also filed a private complaint as CrI.M.P.No. 10345/2014 before the Judicial First Class Magistrate Court, Karunagappally.

3. It must be said that husband rose to the occasion and in turn filed O.P.(G & W)No.526/ 2014 before the Family

Court, Alappuzha and also moved O.P.(Div.)No. 221/2014 for divorce before the same court.

4. It is not in dispute that the couple have a child aged six years and she is staying with his mother. The wife points out that she has to travel a long distance and she has nobody to accompany her and she is financially unsound. She also points out that she finds it extremely difficult to travel long distance. Under these circumstances, it is pointed out that it is not possible for her to attend the case at Family Court, Alappuzha and it will be only appropriate that the matter be transferred to Family Court, Chavara.

5. The petitions filed by the wife were strongly opposed by respondent in Tr.P.(C)Nos.672/2014 and 673/2014 and petitioners in Tr.P.(C) No. 585/2014. Tr.P.(C) No. 585/2014 is by the parents of the husband for transferring O.P.No.640/2014 pending before Family Court, Chavara to Family Court, Alappuzha. Several allegations are stated in the petition and also certain communications

were read out to this Court. It is also contended that the parents of the husband are aged and they find it extremely hard to travel such a long distance. So, it is only appropriate, according to the learned counsel for the petitioners in Tr.P.(C) No. 585/2014 that the cases which are pending before the Family Court, Chavara be transferred to Family Court, Alappuzha.

6. At the time of hearing, the learned counsel appearing for the petitioner-wife pointed out that in O.P.No.640/2014, the husband had entered appearance through power of attorney and that course can be resorted to by the parents of the husband also, if the case is transferred to Chavara Family Court. Of course, there are allegations and counter allegations by both the parties and a probe into the matter is not necessary in this proceedings. The fact remains that there is plea for maintenance by the wife and also that the child is residing with her.

7. It needs to be noticed that the husband is in Merchant Navy and he is very seldom on land. That probably was the reason why he appointed a power of attorney to represent him.

8. After having given anxious consideration to various aspects, it is felt that the plight of the petitioner in Tr.P.(C)Nos.672/2014 and 673/2014 is more pathetic as she has to look after the child and also has to seek maintenance for her. As rightly pointed by the learned counsel for the petitioner in those petitions, the parents of the husband can appoint a power of attorney since it is only a money claim and there is no need for them to appear quite often before the Family Court, Chavara. On the other hand, if these petitions are transferred as required in Tr.P.C.585/2014, it will involve frequent trips for the wife to Alappuzha which involves both expenses and inconvenience to her. Moreover, she has also a child to carry with her.

9. Under such circumstances, it is felt that the request made by the wife is reasonable.

For the above reason, these petitions are disposed of as follows:

Tr.P.(C)Nos.672/2014 and 673/2014 are allowed and O.P.(G&W)No. 526/2014 and O.P.(Div.)No. 221/2014 pending before Family Court, Alappuzha shall stand transferred to Family Court, Chavara.

Tr.P.(C) No. 585/2014 shall stand dismissed.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge