IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

MONDAY, THE 15TH DAY OF JULY 2024 / 24TH ASHADHA, 1946

TR.P(C) NO. 210 OF 2024

AGAINST THE ORDER/JUDGMENT DATED IN OP(OTHERS) NO.2423 OF 2023 OF FAMILY COURT, PUNALUR

PETITIONER:

JESSY JOHN
AGED 34 YEARS
D/O JOHN, PUTHANVEEDU HOUSE, IDAMULAKKAL, AYYUR P.O., CURRENTLY RESIDING AT SANGAM STORE QUARTERS, SCHOOLKUNNU, MARUTHA P.O., VAZHIKKADAVU VILLAGE, NILAMBUR TALUK, MALAPPURAM DISTRICT., PIN - 679333

BY ADVS.
P.SAMSUDIN
A.M.BABU
LIRA A.B.
NASRIN WAHAB
DEVIKA E.D.

RESPONDENTS:

1 **ROBIN**
AGED 38 YEARS
S/O THANKACHAN, RAJBHAVAN, KOMBETTIMALA, ASURAMANGALAM, OZHUKKUPARAKKAL PO, IDAMULAKKAL AMSOM, ASURAMANGALAM DESOM, IDAMULAKKAL VILLAGE, KOLLAM DISTRICT., PIN - 691533

2 **THANKAMMA JOHN**
AGED 58 YEARS
W/O. JOHN, PUTHANVEEDU HOUSE, IDAMULAKKAL, AYYUR P.O., CURRENTLY RESIDING AT SANGAM STORE QUARTERS, SCHOOLKUNNU, MARUTHA P.O., VAZHIKKADAVU AMSOM, NILAMBUR TALUK, MALAPPURAM DISTRICT., PIN - 679333

BY ADV JASNEED JAMAL

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VIJU ABRAHAM, J.

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Tr.P.(C) No.210 of 2024

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Dated this the 15th day of July, 2024

ORDER

This transfer petition is filed seeking to transfer OP (OTH) No. 2423/2023 from the files of Family Court, Punalur to Family Court Malappuram.

2. Petitioner is the 1st respondent and 1st respondent is the petitioner and 2nd respondent herein is the 2nd respondent in OP(OTH) No.2423/2023 on the files of Family Court Punalur, which was filed seeking eviction of the petitioner from the house of the respondent. Petitioner and the 1st respondent got married on 11.12.2014. One girl child is born in the wedlock. The relationship between the petitioner and the 1st respondent got strained and it is averred that with an intention to harass the petitioner, the 1st respondent filed OP(OTH) No.2423/2023 before the Family Court Punalur. The petitioner submits that she was subjected to utmost cruelties both mental and physical from the respondent and his family. The petitioner filed OP No.81/2024 before the files of Family Court Malappuram seeking divorce. The petitioner further submits that she along with her child are residing in Malappuram

district and the distance between Malappuram to Kollam is about 300 kms and it is not possible for her to travel this much long distance along with the minor child. It is also submitted that she is not in a financial condition to afford the travel expenses since she has no source of income of her own. Petitioner further submits that another proceedings in OP No.81/2024 is pending consideration before the Family Court, Malappuram.

3. Though notice was issued to the respondents, the 1st respondent did not appear.

4. Admittedly the petitioner is residing in Malappuram along with her child and the OP No.2423/2023 is pending before the Family Court, Punalur, which is 300 Kms away from her place of residence. Another petition filed as O.P. No.81/2024 is pending before the Family Court, Malappuram, seeking divorce. It is settled law that the convenience of the wife is of prime consideration, while considering an application for transfer of the case(See the judgments of the Apex Court in ***Aishwarya v. Saravana Karthik Sha[2022 (4) KLT OnLine 1020 (SC)], Rajani Kishor Pardeshi v. Kishor Babulal Pardeshi [2005 (1) KLT OnLine 1169(SC)], Mangla Patil Kale v. Sanjeev Kumar Kale [2003 (10) SCC 280] and Sumita Singh v. Kumar Sanjay***

and another [AIR 2002 (SC) 396]).

4. Taking all these aspects into consideration, I am inclined to pass an order directing to transfer OP (OTH) No. 2423/2023 from the files of Family Court, Punalur to Family Court Malappuram for trial and disposal.

The above transfer petition is allowed as above.

Sd/-
VIJU ABRAHAM
JUDGE

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APPENDIX OF TR.P(C) 210/2024

PETITIONER ANNEXURES

Annexure -A1	**TRUE COPY OF THE PETITION DATED 18-12-2023 IN OP(OTH) 2423/2023 ON THE FILES OF FAMILY COURT PUNALUR**
Annexure -A2	**TRUE COPY OF THE PETITION IN OP 81/2024 ON THE FILES OF FAMILY COURT MALAPPURAM**