



Tr.P(C) No.135 of 2025

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 4TH DAY OF AUGUST 2026 / 13TH SRAVANA, 1948

TR.P(C) NO. 135 OF 2025

OP NO.1 OF 2024 OF FAMILY COURT, THODUPUZHA

PETITIONER/S:

XXXXXX
AGED XXXX YEARS
XXXX

BY ADVS.
SMT.SILPA S.
SMT.V.O.PHILOMINA
SHRI.JOSEPH JOSE
SHRI.AARTHUR B. GEORGE

RESPONDENT/S:

1 XXXXX
AGED XXXX YEARS
XXXX

2 XXXXX
AGED XXXX YEARS
XXXX

3 XXXXX
AGED XXXX YEARS
XXXX

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HERAD
ON 29.07.2026, THE COURT ON 04.08.2026 PASSED THE FOLLOWING:



Tr.P(C) No.135 of 2025

2

MOHAMMED NIAS C.P., J.

.....
Tr.P(C) No.135 of 2025
.....

Dated this the 04th day of August, 2026

ORDER

This transfer petition is filed by the former wife of the 1st respondent to transfer O.P No.01 of 2024 filed by her for recovery of money and gold ornaments from the Family Court, Thodupuzha to the Family Court, Muvattupuzha.

2. The petitioner and the 1st respondent were legally married, and have three children. As per Annexure-A1 common order, in O.P(Div) No.409 of 2022 for divorce and M.C No.79 of 2021 for maintenance dated 28.12.2024, the Family Court, Thodupuzha allowed the petition filed by the husband alleging cruelty and granted.

3. The petitioner contends that serious allegations were raised against the 1st respondent for having sexually abused her daughters and Crime No.2337 of 2020 was registered leading to SC No. 186 of 2021 which was transferred to the Special Court under the Protection of Children from Sexual Offences (POCSO) Act and the Juvenile Justice



Tr.P(C) No.135 of 2025

3

(Care and Protection of Children) Act, Thodupuzha and renumbered as SC No.558 of 2022. Crime No. 2338 of 2020 was also registered alleging sexual abuse against the 1st respondent.

4. Petitioner further contended that it is in retaliation to the above complaint that the respondent filed a divorce petition alleging cruelty, and despite the serious allegations raised against him, the Family Court, Thodupuzha, without even considering the pendency of POCSO cases, SC No.558 of 2022 and Crime No. 2338 of 2020, allowed divorce, against which, an appeal is stated to have been filed.

5. The petitioner submits that she has also lodged a complaint before the Judicial Registrar (District Judiciary), High Court of Kerala, regarding the alleged biased judgment in OP(Div) No.409 of 2022 and M.C No.79 of 2021, raising serious concerns over judicial impartiality.

6. Since the earlier case was decided by the same judicial Officer in the manner stated above, the petitioner apprehends bias and prejudice if O.P No.01 of 2024 filed by her for recovery of money and gold ornaments is also tried by the same presiding officer.



Tr.P(C) No.135 of 2025

4

7. Though the respondent has been served, there is no appearance.

8. In *Kumaon Mandal Vikas Nigam Ltd. v. Girja Shankar Pant* (2001 1 SCC 182), the Supreme Court held that the test for bias is not whether the decision-maker was actually prejudiced, but whether, considering the entirety of the surrounding circumstances, a reasonable person would infer a real likelihood or real danger of bias. Since justice must not only be done but must also be seen to be done, the Court must consider the impression that the circumstances would create in the mind of a reasonable person. At the same time, a mere apprehension, suspicion, surmise or conjecture is insufficient; there must be positive and cogent material showing circumstances from which a reasonable person could conclude that the decision-maker is likely to be prejudiced. Fanciful or motivated allegations of bias raised merely to avoid a particular Court, tribunal or authority cannot be countenanced.

9. It is beyond cavil that the law states that the test of bias is not



Tr.P(C) No.135 of 2025

5

whether the Judicial Officer believes himself/herself to be impartial nor whether the litigant subjectively feels aggrieved; the law adopts an objective standard, and the allegation of bias is examined from the standpoint of a reasonable, fair-minded and informed observer who is neither the Judicial Officer nor the disgruntled litigant. If the test were based truly on the litigant's perception, every unsuccessful litigant could allege bias merely because an earlier case has been decided against him or her. Such a standard would seriously undermine judicial independence and the finality of adjudication. A litigant's dissatisfaction, suspicion or loss of confidence, however genuine, does not constitute legal bias unless the apprehension is one that an independent, reasonable and informed person would entertain.

10. Equally, a judge's personal conviction that he or she can act fairly is not conclusive, as justice must not only be done but must also appear to be done. Therefore, even if the judge honestly believes that he or she is impartial, the court must examine whether an objective



Tr.P(C) No.135 of 2025

6

observer would reasonably apprehend bias. It is only in cases where the previous proceedings reveal something beyond the judicial determination - such as personal prospective, extraneous interest, pre-judgment of the issues not before the court or conduct giving rise to a reasonable apprehension of partiality - that a plea of bias succeeds.

11. Having regard to the facts noticed above, the complaint submitted by the petitioner on the administrative side of this Court, and the absence of any response from the 1st respondent either to the allegations made against him or to the request for transfer, I am of the view that the apprehension expressed by the petitioner cannot, at this stage, be characterised as wholly unfounded. Without expressing any opinion on the correctness or otherwise of the allegations against the learned Judge, and solely with a view to preserving the confidence of the litigant in the administration of justice and to avoid any possible perception of bias, I am satisfied that it would be appropriate, in the interest of justice, to direct the transfer of the proceedings to the



Tr.P(C) No.135 of 2025

7

Family Court, Muvattupuzha.

Accordingly, the transfer petition is allowed as follows:-

- (i) O.P No.01 of 2024 is transferred from the Family Court, Thodupuzha to the Family Court, Muvattupuzha.
- (ii) The Registry shall forward a copy of this order to the Family Court, Thodupuzha with instructions to forthwith transmit the records in O.P No.01 of 2024 to the Family Court, Muvattupuzha.
- (iii) The Family Court, Muvattupuzha shall, immediately on the receipt of the records in O.P No.01 of 2024, issue notice to the parties for their appearance.

SD/-

**MOHAMMED NIAS C.P.
JUDGE**

JJ



2026:KER:59431

Tr.P(C) No.135 of 2025

8

APPENDIX OF TR.P(C) NO. 135 OF 2025

PETITIONER ANNEXURES

Annexure A1	A certified copy of the Common Order of O.P.(Div) No. 409/2022 & M.C. No. 79/2021 on the file of the Family Court, Thodupuzha, dated 28.12.2024
Annexure A2	A true copy of the letter issued by the District Child Protection Unit, Idukki, dated 23.07.2020
Annexure A3	A true copy of the Criminal Miscellaneous Case No. 1289 of 2022 order dated 26.08.2022
Annexure A4	A true copy of the Special Court, vide its order dated 27.01.2024
Annexure A5	A true copy of the Criminal Miscellaneous Case No. 3639/2024 order dated 24.10.2024
Annexure A6	A true copy of the O.P. No. 1/2024 before the Family Court, Thodupuzha dated 13/12/2023
Annexure A7	A true copy of the complaint dated 19/2/2025