

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 3RD DAY OF JANUARY 2022 / 13TH POUSHA, 1943

TR.P(C) NO. 504 OF 2021

AGAINST THE ORDER/JUDGMENT IN OPDIV 693/2019 OF FAMILY COURT, PALA

PETITIONER/RESPONDENT:

MERIA JOSEPH
AGED 29 YEARS
D/O.M.V.JOSEPH, MUNDENKODUPPEL HOUSE,
PAMPADY P.O., KOTTAYAM, PIN-686502.
BY ADVS.
P.T.ABHILASH
L.D.LIJOROY

RESPONDENTS/PETITIONER:

ANOOP S. PONNATTU
AGED 31 YEARS
S/O.SUNNY JOSEPH, PONNATTU,
PANACHIKAPARA, POONJAR P.O.,
MEENACHIL TALUK, KOTTAYAM, PIN-686581.
BY ADV P.C.HARIDAS

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.01.2022, ALONG WITH Tr.P(C).486/2021, 488/2021 AND 495/2021, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

**Tr.P(C) Nos.488 Of 2021
& con.cases**

-2-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 3RD DAY OF JANUARY 2022 / 13TH POUSHA, 1943

TR.P(C) NO. 486 OF 2021

AGAINST THE ORDER/JUDGMENT IN OP 413/2018 OF FAMILY COURT, PALA

PETITIONER:

**MERIA JOSEPH
AGED 29 YEARS
D/O. M.V.JOSEPH, MUNDENKODUPPEL HOUSE,
PAMPADY P.O., KOTTAYAM, PIN-686 502.
BY ADVS.
P.T.ABHILASH
L.D.LIJOROY**

RESPONDENT:

**ANOOP S.PONNATTU
AGED 31 YEARS
S/O. SUNNY, PONNATTU, PANACHIPARA,
POOJAR P.O., KOTTAYAM, PIN-686 581.
BY ADV P.C.HARIDAS**

**THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 03.01.2022, ALONG WITH Tr.P(C).504/2021 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Tr.P(C) Nos.488 Of 2021
& con.cases

-3-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 3RD DAY OF JANUARY 2022 / 13TH POUSHA, 1943

TR.P(C) NO. 488 OF 2021

AGAINST THE ORDER/JUDGMENT IN OPGW 695/2019 OF FAMILY COURT,
PALA

PETITIONER:

MERIA JOSEPH
AGED 29 YEARS
D/O. M.V.JOSEPH, MUNDENKODUPPEL HOUSE,
PAMPADY P.O., KOTTAYAM, PIN-686 502.
BY ADVS.
P.T.ABHILASH
L.D.LIJOROY

RESPONDENTS:

ANOOP S. PONNATTU
AGED 31 YEARS
S/O. SUNNY, PONNATTU, PANACHIPARA,
POOJAR P.O., KOTTAYAM, PIN-686 581.
BY ADV P.C.HARIDAS

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 03.01.2022, ALONG WITH Tr.P(C).504/2021 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Tr.P(C) Nos.488 Of 2021
& con.cases

-4-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 3RD DAY OF JANUARY 2022 / 13TH POUSHA, 1943

TR.P(C) NO. 495 OF 2021

AGAINST THE ORDER/JUDGMENT IN OP 412/2018 OF FAMILY COURT, PALA

PETITIONER:

MERIA JOSEPH
AGED 29 YEARS
D/O.M.V.JOSEPH, MUNDENKODUPPEL HOUSE,
PAMPADY P.O., KOTTAYAM, PIN-686502.
BY ADVS.
P.T.ABHILASH
L.D.LIJOROY

RESPONDENTS:

- 1 ANOOP S. PONNATTU
AGED 31 YEARS
S/O.SUNNY, PONNATTU, PANACHIPARA,
POOJAR P.O., KOTTAYAM, PIN-686581.
- 2 SUNNY JOSEPH,
AGED 59 YEARS
S/O.JOSEPH, PONNATTU, PANACHIPARA,
POOJAR P.O., KOTTAYAM, PIN-686581.
- 3 JESSY SUNNY,
AGED 55 YEARS
W/O.SUNNY, PONNATTU, PANACHIPARA,
POOJAR P.O., KOTTAYAM, PIN-686581.
BY ADV P.C.HARIDAS

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 03.01.2022, ALONG WITH Tr.P(C).504/2021 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

CR

ORDER

Dated this the 3rd day of January, 2022

These are transfer petitions filed by Meria Joseph, wife against her husband seeking transfer of O.P.Nos.412/2018 and 413/2018 filed by the petitioner herein before the Family Court, Pala and to transfer O.P.(Div).No.693/2019 and O.P.(G&W) No.695/2019 filed by the respondent husband before the Family Court Pala, to the Family Court, Attingal.

2. Heard both sides in detail.

3. It is submitted by the learned counsel for the petitioner/wife that the wife who originally belonged to Pambady in Pala filed two Original Petitions and the husband, a resident within the jurisdiction of the Family Court, Pala also filed two Original Petitions before the Family Court, Pala. It is submitted that now the petitioner got appointment as Digital Marketing Trainee in Thiruvananthapuram and therefore, she had shifted her residence to Attingal. It is submitted further that now the petitioner has been residing in a rental house in Attingal. A rent deed showing availing of rental house in Attingal also has been

placed in support of this contention.

4. The learned counsel for the petitioner would submit further that the petitioner at present has been residing in Attingal along with 3 ½ year old child and therefore, she has been experiencing difficulties to reach the Family Court, Pala to conduct the cases. As such, the learned counsel pressed for transfer as sought for.

5. The husband/respondent who opposed the transfer petition filed detailed counter, stating that M.C.No.6/2018 was filed by the petitioner before the Grama Nyayalaya, Pampady and that was allowed in favour of the petitioner. Against which Crl.A.No.171/2018 filed before the Sessions Court, Kottayam and the same was allowed and modified the order on 10.07.2020. It is submitted further that a shift in place of residence by the petitioner at her convenience that too in a rental house, cannot be a reason to transfer cases at her convenience. In this connection, the learned counsel for the respondent/husband placed recent decision of this Court in **Vidhya Mundeekkat v. Akhilesh Jayaram (2021 (6) KHC 506)**.

6. The learned counsel for the petitioner would submit that following the ratio in the decisions reported in **Sumitha Singh v. Kumar Saanjay and others** (2002 KHC 1889 : AIR 2002 SC 396 : 2001 AIR SCW 5193 : (2001) 10 SCC 41 : 2001 (5) Supreme 667), **Mangla Patil Kale v. Sanjeev Kumar Kale** ((2003) 10 SCC 280), and **Anindita Das v. Srijit Das** (2006 KHC 1887 : (2006) 9 SCC 197), the petitioner is entitled to get transfer of these proceedings to place of her convenience.

7. In fact, in the decision in **Vidhya Mundekkat' case** (supra), a Division Bench of this Court considered the parameters to be borne in mind while considering transfer of cases at the instance of the wife and after referring the above decisions it was held that it is not an invariable rule that whenever a wife makes a request pointing out her inconvenience, transfer of a case to a court of her choice is automatic.

8. In **Anindita Das'** case (supra), the Apex Court held that each case must be considered on its merit.

9. It is in this context, the grievance of the petitioner requires to be addressed. Here, the petitioner wants to transfer the above cases on the assertion that she had shifted her

permanent residence in Pala to a rental house in Attingal. Now the crucial question is; whether temporary shift of residence by the wife is a reason to transfer of cases within the jurisdiction of the said temporary residence?

10. Here, admittedly, the petitioner originally is a permanent resident of Pala. Her husband, the respondent also has been residing in Pala. These transfer petitions have been filed only on the ground that the petitioner shifted her residence at present to Attingal, that too in a rental house. I do not think that shifting a permanent residence to a temporary residence, that too in a rental house by itself is a ground to transfer cases pending within the jurisdiction of the permanent residence of both parties. The rational is; in the case of temporary residence, particularly rental accommodation, the same is not at all static and it can be changed for any immediate reason. If cases are transferred to such temporary abode, again and again cases will have to be transferred, when the temporary residence being shifted. Therefore, I am of the considered view that availing a temporary residence, either by way of rental accommodation or otherwise shall not be a ground to allow transfer of cases on the mere plea that the said place is convenient to the wife.

**Tr.P(C) Nos.488 Of 2021
& con.cases**

- 9 -

In view of the above finding, I find no merit in these transfer petitions. Accordingly, these petitions stand dismissed.

**Sd/-
A.BADHARUDEEN
JUDGE**

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**Tr.P(C) Nos.488 Of 2021
& con.cases**

-10-

APPENDIX OF TR.P(C) 504/2021

PETITIONER ANNEXURES

- | | |
|-------------------|---|
| Annexure A | TRUE COPY OF O.P(DIV)NO.693/2019 ON THE
FILE OF THE LEARNED FAMILY COURT, PALA,
FILED BY THE RESPONDENT UNDER SECTION
10(X) OF DIVORCE ACT 1869 R/W SECTION 7 OF
FAMILY COURT ACT. |
| Annexure B | TRUE PHOTOCOPY OF THE APPOINTMENT LETTER
DATED 26.08.2019 ISSUED BY THE EDWIZA
SOLUTIONS PVT.LTD. THIRUVANANTHAPURAM TO
THE PETITIONER. |
| Annexure C | TRUE PHOTOCOPY OF THE RENTAL AGREEMENT
DATED 05.07.2021 BETWEEN THE PETITIONER
AND MINIMOL. |

APPENDIX OF TR.P(C) 486/2021

PETITIONER ANNEXURES

Annexure A	TRUE COPY OF O.P.NO.413/2018 ON THE FILE OF THE LEARNED FAMILY COURT, PALA FILED BY THE PETITIONER FOR SEEKING RESTITUTION OF CONJUGAL RIGHTS.
Annexure B	TRUE PHOTOCOPY OF THE APPOINTMENT LETTER DATED 26.8.2021 ISSUED BY THE EDWIZA SOLUTIONS PVT. LTD. THIRUVANANTHAPURAM TO THE PETITIONER.
Annexure C	TRUE PHOTOCOPY OF THE RENTAL AGREEMENT DATED 5.7.2021 BETWEEN THE PETITIONER AND MINIMOL.

APPENDIX OF TR.P(C) 488/2021

PETITIONER ANNEXURES

- | | |
|-------------------|---|
| Annexure A | TRUE COPY OF O.P.(G & W) NO.695/2019 ON THE FILE OF THE LEARNED FAMILY COURT, PALA FILED UNDER SECTION 8 & 9 OF THE GUARDIAN AND WARDS ACT 1890 R/W SECTION 7(1) EXPLANATION OF FAMILY COURTS ACT, 1984. |
| Annexure B | TRUE PHOTOCOPY OF THE APPOINTMENT LETTER DATED 26.8.2021 ISSUED BY THE EDWIZA SOLUTIONS PVT. LTD., THIRUVANANTHAPURAM TO THE PETITIONER. |
| Annexure C | TRUE PHOTOCOPY OF THE RENTAL AGREEMENT DATED 5.7.2021 BETWEEN THE PETITIONER AND MINIMOL. |

**Tr.P(C) Nos.488 Of 2021
& con.cases**

-13-

APPENDIX OF TR.P(C) 495/2021

PETITIONER ANNEXURES

- | | |
|-------------------|--|
| Annexure A | TRUE COPY OF O.P.NO.412/2018 ON THE FILE OF THE LEARNED FAMILY COURT, PALA, FILED UNDER SECTION 20 OF HINDU ADOPTION AND MAINTENANCE ACT 1956 R/W SECTION 7(1) EXPLANATION OF FAMILY COURT ACT, 1984. |
| Annexure B | TRUE PHOTOCOPY OF THE APPOINTMENT LETTER DATED 26.08.2021 ISSUED BY THE EDWIZA SOLUTIONS PVT.LTD. THIRUVANANTHAPURAM TO THE PETITIONER. |
| Annexure C | TRUE PHOTOCOPY OF THE RENTAL AGREEMENT DATED 05.07.2021 BETWEEN THE PETITIONER AND MINIMOL. |