

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 4TH DAY OF APRIL 2022 / 14TH CHAITHRA, 1944

TR.P(C) NO. 76 OF 2022

AGAINST THE ORDER/JUDGMENT IN OP 1038/2021 OF FAMILY COURT, MUVATTUPUZHA

PETITIONER/RESPONDENT:

MINI ANTONY
AGED 34 YEARS
D/O.E.J.ANTONY, EROOIKKAL HOUSE,
KALLACHI, VILANGAD (PO), KOZHIKODE DISTRICT,
PIN- 673 506 NOW RESIDING AT M6/14,
HOUSING COLONY, 33/4618, MALAPARAMBA,
KOZHIKODE, PIN - 673 009.
BY ADVS.
P.V.ANOOP
PHIJO PRADEESH PHILIP
M.P.PRIYESHKUMAR
K.V.SREERAJ

RESPONDENT/PETITIONER:

SAVIO ARUJA
AGED 40 YEARS
S/O.PASCHAL AROOJA,
MARY VILLA, PIRAVOM (PO),
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM, PIN - 686 664.
BY ADV SHIRAS ALIYAR

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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ORDER

Dated this the 4th day of April, 2022

The interesting question in this transfer petition is as under:

Is the inconvenience of the power of attorney holder of the husband is a reason to disallow transfer of a petition pending before the Family Court at the instance of the wife, highlighting her convenience.

2. This transfer petition has been filed under Section 24 of the Code of Civil Procedure by the petitioner, who is the wife, seeking transfer of O.P.No.1038/2021 pending before the Family Court, Muvattupuzha to Family Court, Kozhikode, where she has been residing permanently.

3. Heard both sides in detail.

4. Adv.Shiras Aliyar appeared for the respondent zealously opposed transfer on the submission that the

respondent is a male nurse working abroad and therefore, he appointed his father as power of attorney to conduct the case. If the transfer is allowed, the same will be inconvenient for the father who is aged and ailing to reach Kozhikode to conduct the case. Therefore, the transfer cannot be allowed, is the submission of the learned counsel for the respondent.

5. The sum and substance of the objection raised by the respondent is that, if transfer sought for is allowed, the same would be inconvenient for the power of attorney holder. It is not in dispute that by appointing a power of attorney, a principal appoints an agent to conduct his case and such an agent can be anybody capable of travelling and contesting the case of the respondent for and on behalf of the respondent. Nobody is permitted to shield the contention of the wife after appointing an agent who is incapable to conduct the case, for reasons such as age old condition, ailment etc. To be precise, the inconvenience of the power of attorney holder (whether he is male or female)

is not a reason to deny transfer sought for by the wife. Therefore, this objection is found to be merit less.

6. Accordingly, taking note of the convenience of the wife as has been submitted, this transfer petition stands allowed.

In the result, this petition is allowed. O.P.No.1038/2021 pending before the Family Court, Muvattupuzha shall stand transferred to the Family Court, Kozhikode. Family Court Muvattupuzha is directed to forward the case records to the Family Court, Kozhikode, forthwith. Parties shall appear before the Family Court, Kozhikode on 18.05.2022.

Registry shall forward a copy of this order to the court below concerned, within seven days, for information and compliance.

Sd/-
A. BADHARUDEEN
JUDGE

TR.P(C) NO. 76 OF 2022

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APPENDIX OF TR.P(C) 76/2022

PETITIONER ANNEXURES

Annexure A

TRUE COPY OF THE PETITION FILED BY THE
RESPONDENT AGAINST PETITIONER DATED
31/12/2021 WHICH IS NOW PENDING AS
O.P.NO.1038/2021 ON THE FILE OF FAMILY
COURT, MUVATTUPUZHA.