



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

MONDAY, THE 2ND DAY OF MARCH 2026 / 11TH PHALGUNA, 1947

TR.APPEAL(C) NO. 4 OF 2026

AGAINST THE ORDER DATED 20.01.2026 IN Tr.P(C) NO.171 OF 2025
OF HIGH COURT OF KERALA

APPELLANT/RESPONDENT:

BINU DAS B
AGED 44 YEARS, SON OF BAHULEYAN
'SAROJ', KOTTAKKAKOM WARD, KOLLAM TALUK, KOLLAM
DISTRICT, PIN - 691001

BY ADVS.
SRI.JOHNSON GOMEZ
SRI.SANJAY JOHNSON
SHRI.SANJITH JOHNSON
SHRI.ABIN JACOB MATHEW
SMT.DEEBU R.
SHRI.ARUN JOHNY

RESPONDENT/PETITIONER:

SMITHA RAJ L., SPOUSE OF BINU DAS
SMITHA BHAVAN, PAZHAKULAM P.O, ADOOR, PALLIKKAL,
PATHANAMTHITTA, PIN - 691554

THIS TRANSFER APPEAL(CIVIL) HAVING COME UP FOR ADMISSION ON
02.03.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



SATHISH NINAN & P. KRISHNA KUMAR, JJ.

= = = = =

Tr.Appeal (C) No.4 OF 2026

= = = = =

Dated this the 2nd day of March, 2026

JUDGMENT

P.Krishna Kumar, J.

This intra-court appeal is directed against the order passed by the learned Single Judge allowing the transfer of O.P.(HMA) No.505/2020 on the file of the Family Court, Kollam, to the Family Court, Punalur, at the instance of the respondent/wife.

2. The appellant is the husband. He instituted the above original petition before the Family Court seeking annulment of the marriage solemnised with the respondent on 11.07.2008 in accordance with Hindu religious rites and ceremonies. The respondent raised a counter claim seeking restitution of conjugal rights. She also filed I.A. No.2/2024 to open a bank locker and for handing over the gold ornaments kept therein to



her. The said application having been dismissed by the Family Court, the respondent carried the matter before this Court. Upon this Court upholding the said order, the respondent filed a fresh application as I.A. No.6/2024 in the original petition, along with a schedule of gold ornaments and wedding photographs. The Family Court again dismissed the said application. While the original petition challenging the said order was pending before this Court, the matter was referred to mediation at the request of the parties.

3. In the mediation proceedings, the parties arrived at a settlement agreement, pursuant to which the appellant/husband agreed to return the gold ornaments kept in the locker on 03.03.2025. The settlement agreement further provided as follows:

“4. The parties agree that the pending case, OP(HMA) 505/20, filed by the respondent before the Kollam Family Court, will be contested by both parties, and both parties agree to fully cooperate with the proceedings for an expeditious disposal of the same.”

Based on the said settlement, this Court disposed of the original petition.



4. It is not in dispute that the appellant has complied with his obligations under the settlement. According to the appellant, after securing the benefits flowing from the mediated settlement, the respondent dishonestly and unilaterally resiled therefrom and filed the present transfer petition before this Court contending that, since she has been practising at the Kollam court centre, including before the Family Court, Kollam, the case is liable to be transferred to Punalur, which is away from her workplace.

5. The appellant further contends that the case had originally been posted for evidence on 03.12.2024 and was thereafter adjourned, and that at all earlier stages the respondent had actively participated in the proceedings before the said court. It is alleged that the attempt to transfer the proceedings was made solely with the object of delaying the trial, that too after availing the benefits arising from the settlement agreement entered into in the very same proceedings. The impugned order is further assailed on the ground that the learned Single Judge failed to advert to the above aspects while allowing the transfer petition.



6. We have heard Sri. Johnson Gomez, learned counsel appearing for the appellant, and Sri. Sreehari Indukaladharan, learned counsel appearing for the respondent.

7. In the transfer petition, the respondent stated that she is a permanent resident of Pazhakulam in Pathanamthitta District, whereas the appellant is a resident of Kollam. The sole ground urged for transfer reads thus:

“(A) The petitioner is engaged in various matters at the Kollam court centre, including the Family Court, and is regularly practising at the said court centre. There would be serious prejudice to the petitioner in participating in the trial at the Kollam court centre, which is her workplace. Hence, she is not in a position to appear before the Family Court, Kollam, in connection with Annexure-1 petition. Therefore, Annexure-1 O.P. (HMA) No.505/2020 pending before the Family Court, Kollam, may be transferred to the Family Court, Punalur, in view of the inconvenience faced by the petitioner in attending the proceedings before the Family Court, Kollam.”

It was further stated that the distance from her residence to Punalur, the court to which transfer has been ordered, is 50 kilometres, whereas the distance from the appellant's residence to Punalur is only 40 kilometres. During the course of hearing, the learned counsel for the respondent submitted that she has been practising at Adoor, Pathanamthitta and



Kollam.

8. It is admitted by both sides that the case has reached its final stage and that what now remains is only the recording of evidence followed by final arguments. It is also evident that the respondent is represented by counsel of her choice before the trial court. At this stage, the learned counsel appearing for the appellant undertook that the appellant is agreeable for recording of evidence through a commissioner if at all the respondent experiences any inconvenience or embarrassment in appearing before the court. Consequently, there would be minimal necessity for the personal appearance of the respondent, particularly since the stages of conciliation and mediation have already been concluded.

9. Having regard to the entire circumstances, we are of the considered opinion that, after the proceedings have progressed up to the stage of trial, the transfer of the case to another court is highly unjustified and improper. The grievance projected by the respondent existed even on



03.12.2024, when the case was posted for evidence. At any rate, her grievance could be adequately addressed by appointing a Commissioner for recording evidence.

10. There is yet another circumstance which persuades us to take the above view. Under the mediated settlement agreement, the respondent had expressly agreed to fully cooperate with the proceedings before the Family Court, Kollam, for expeditious disposal of the case. Had the respondent entertained any objection to facing trial before the said court, such an agreement would not have been entered into. We therefore find considerable force in the contention advanced on behalf of the appellant that the present transfer petition was filed only after securing the fruits of the compromise agreement and that the same has resulted in further delay in the disposal of the petition instituted by the appellant/husband.

11. As held by this Court in *Vidhya Mundeekkat v. Akhilesh Jayaram* [MANU/KE/2592/2021], transfer cannot be claimed by the wife in any case as a matter of course merely by pleading



inconvenience. In the above circumstances, we are of the considered view that the order transferring the case at this advanced stage of the proceedings is unsustainable and is liable to be set aside.

As a result, the appeal is allowed and the impugned order is set aside.

Sd/-

SATHISH NINAN

JUDGE

Sd/-

P. KRISHNA KUMAR

JUDGE

SV