

(1996) 06 KL CK 0083**High Court Of Kerala****Case No:** C.M.C. No. 50 of 1996

Gopi

APPELLANT

Vs

Rajalakshmi

RESPONDENT

Date of Decision: June 13, 1996**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 24
- Hindu Adoptions and Maintenance Act, 1956 - Section 23, 27

Citation: (1996) 2 DMC 331 : (1996) 2 KLJ 156**Hon'ble Judges:** J.B. Koshy, J**Bench:** Single Bench**Advocate:** T.O. Xavier, for the Appellant; None, for the Respondent**Final Decision:** Dismissed**Judgement**

J.B. Koshy, J.

This is a transfer petition u/s 24 of the CPC filed by the respondent in O.S. No. 91/94 on the file of the Family Court, Trichur. The 1st respondent in this revision petition filed an application under Sections 23 and 27 of the Hindu Adoptions and Maintenance Act before the Family Court, Trichur. There was also a prayer for attaching the property of the defendant. The 1st respondent earlier filed M.C. No. 14/94 before the Family Court, Trichur for maintenance for her as well as for her minor children. Family Court allowed the petition for maintenance granting maintenance allowance of Rs. 300/- per month to the 1st respondent herein, Rs. 250/- each per month to the two minor sons and and Rs. 200/- per month to the another minor son. Revision petition filed against that order is pending before that Court. As ordered by this Court, amount in that case was deposited.

2. Now, the petitioner herein wants to transfer the case from the Family Court, Trichur to the Family Court, Ernakulam or to any other Family Courts in the nearby districts. The only ground taken by the petitioner for transferring the suit O.S. 91/94

is that the very same Court earlier decided M.C. No. 14/94. This is not a ground for transferring a petition. Merely because an earlier maintenance application was decided against the petitioner by that Court, and revision petition is filed against that decision is pending before this Court, it cannot be contended that subsequent application cannot be tried in that Court and it should be transferred. There is no allegation of mala fides raised by the petitioner against the Presiding Officer.

3. Transfer of a case from one Court to another is a serious matter, because it indirectly casts doubt, on the integrity and capability of the Presiding Officer of the Court from which transfer is sought. Mere apprehension of the petitioner that he may not get justice is not enough for transferring a case. Only in very special circumstances, case can be transferred from one Court to another. A judicial order made by a Judge cannot be a ground for transferring the subsequent suits. In G. Lakshmi Ammal Vs. Elumalai Chettiar and Others, it was held that mere fact that a Judge while deciding an earlier case had made certain remarks is not a ground for transfer of a subsequent case, on the same point before him. If the transfer is allowed, the respondents (a lady with 2 minor children) will be put to unnecessary difficulties to appear before the Family Court in another district. No valid ground is made out by the petitioner in this case to transfer of the case u/s 24 of the C.P.C. There is no merit in this C.M.C. It is accordingly dismissed.