

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN**

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

Mat.Appeal.No. 156 of 2005 ()

**AGAINST THE ORDER IN OP 76/2001 of FAMILY COURT, THRISSUR
DATED 26-03-2005**

APPELLANT/PETITIONER:

**PRESANNA,
EDAMUTTAM KARAYIL KANNANKATTIL
VALAPPAD VILLAGE, CHAVAKKAD, TRICHUR.**

**BY ADVS.SRI.V.V.ASOKAN
SMT.S.AMINA**

RESPONDENT/RESPONDENT:

**PUSHPANGAN,
S/O. NARAYANAN,
VADAKKUMPURAM MURIYIL KANNANKATTIL
CHENDAMANGALAM VILLAGE,
PARAVOOR TALUK, ERNAKULAM.**

BY ADV. SRI.JOHN JOSEPH

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 17-08-2015, ALONG WITH MA. 163/2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

**C.K. ABDUL REHIM, J.
&
K. RAMAKRISHNAN, J.**

Mat. Appeal Nos. 156 & 163 OF 2005

DATED THIS THE 17th DAY OF AUGUST, 2015

J U D G M E N T

K. Ramakrishnan, J:

Both these appeals arising from a common order and therefore these appeals were heard together and disposed of by a common judgment.

2. The petitioner in OP 76/2001 on the file of Family Court, Thrissur is the appellant in Mat. Appeal 156/2005 while respondent in OP 544/1999 on the file of same Court is the appellant in Mat. Appeal 163/2005. The appellant and respondent are man and wife. They purchased a property in their joint names while they were living together as husband and wife. Two children were born to them in the wedlock and they become major. While so dispute arose between the parties which resulted in filing of OP 563/1999 by the husband for dissolution of marriage and OP 544/1999 also by husband for partition of the plaint schedule property which was purchased in their joint names. OP 76/2001 filed by the wife against the husband for declaration of title in respect of the same property in respect of

which partition was sought in OP 544/1999. Both these cases were tried jointly by the family court and OP 543/1999 was dismissed and OP 544/1999 was partly allowed and the building in the property alone was directed to be partitioned equally and one share be given to the husband. OP 76/2001 was allowed declaring that the property belongs to the wife excluding the building situated therein where half right was allowed to be given to the husband. Dissatisfied by the portion of the decree granted in favour of the husband in these two cases the wife filed both the above appeals.

3. During the pendency of the appeals, the matter has been referred for mediation and the matter has been settled in mediation and the mediator has sent a mediation report which will go to show that the matter has been settled between the parties and the husband has agreed to relinquish his half right declared by the court in the property and the building and accordingly they also decided to file a joint petition for divorce to get the marriage dissolved by mutual consent. When the appeals came up for consideration today, the counsel for the appellant in both these cases submitted that as per the mediation settlement the amount has been paid and relinquishment deed has already

been executed as agreed between the parties. So the appellant has no objection in accepting the mediation agreement and passing a decree accordingly. So the decree and judgment passed by the court below which is under challenge is set aside and the same is modified in terms of the settlement arrived at between the parties. Further since the counsel for the appellant had submitted that the amount mentioned in the mediation agreement has already been paid and a relinquishment deed has already been executed, that fact is also recorded and it is declared that the petition schedule property under dispute including the building therein now exclusively belongs to the wife, the appellant in both these cases.

With the above modification of the order passed by the court below, the appeals are disposed of.

The mediation agreement will form part of the judgment.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge