

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

Mat.Appeal.No. 150 of 2015

AGAINST THE COMMON ORDER IN OP 945/2009 of FAMILY COURT,THRISSUR
DATED 17-09-2014

APPELLANT/1ST RESPONDENT:

DEEPA, AGED 30 YEARS,
D/O.GOVINDAN, KOTTEKKATTUKUNNU HOUSE
KILLIMANGALAM DESOM & VILLAGE, THALAPPILLY TALUK
THRISSUR DISTRICT.

BY ADVS.SMT.P.R.REENA
SMT.SURYA BINOY

RESPONDENTS/APPELLANT & 2ND RESPONDENT:

1. ARAVINDAKSHAN, AGED 46 YEARS
S/O.KRISHNAN, VELLIYOTTIL HOUSE
KURUMALA DESOM AND VILLAGE, THALAPPILLY TALUK
THRISSUR DISTRICT-680 586.
2. ANEESH
S/O.MELEKULAMBIL SUNDARAN
KURUMALA DESOM AND VILLAGE, THALAPPILLY TALUK
THRISSUR DISTRICT-680 586

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON
24-03-2015, ALONG WITH MA. 158/2015, MA. 159/2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN

&

BABU MATHEW P. JOSEPH, JJ.

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Mat Appeal Nos. 150, 158 and 159 of 2015

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Dated this the 24th day of March, 2015

COMMON JUDGMENT

K.T. Sankaran, J.

These appeals are between the same parties and they are connected. Therefore, these appeals are disposed of by this common judgment. Hereinafter the parties are referred to as the husband, wife and children. Deepa is the wife of Aravindakshan. Three children were born in that wedlock. The husband filed O.P. No. 945 of 2009 on the file of the Family Court, Thrissur against the wife for dissolution of

marriage on the ground of adultery. The alleged adulterer was also made a party. The Family Court decreed O.P. No. 945 of 2009 against which the wife filed Mat Appeal No. 150 of 2015. The wife filed G.O.P. No. 775 of 2009 for custody of the two out of three children. The Family Court dismissed G.O.P. No. 775 of 2009 against which the wife filed Mat Appeal No. 159 of 2015.

2. The husband filed G.O.P.No. 100 of 2011 against the wife for the custody of the third child. The Family Court allowed G.O.P. No. 100 of 2011 against which the wife filed Mat Appeal No.158 of 2015.

3. When the appeals came up for hearing, the parties were referred for mediation. The parties settled their disputes and differences before the Mediation Centre and a Memorandum of Agreement dated 4.3.2015 was executed and signed by them. The terms of the Memorandum of Agreement are the following:

"1. The 1st appellant and respondent mutually agreed that they cannot live together as husband and wife. The family court granted divorce on the ground of adultery. The 1st appellant being aggrieved very much on the ground on which the divorce is granted, the respondent and the 1st appellant mutually decided to file a joint petition under Section 13B of the Hindu Marriage Act for a mutually consented decree of divorce. This joint petition will be filed within a period of one month from today.

2. It is mutually decided that respondent gets the custody of two minor children Anupama and Gopika. The 1st appellant will get the custody of minor child Abinav. With regard to the visitation rights of the children on every 1st Saturday of every month the 1st appellant and respondent will bring the children in their custody before the premises of Family court, Thrissur for providing an opportunity of interaction between the children. The time fixed for visitation is between 10 a.m. to 2.30 p.m.

3. Over time, the 1st appellant and respondent is

free to formulate the visitation time, venue etc. by mutual consent.

4. If any party failed to comply with the above terms of the agreement, the aggrieved party can execute the terms of the agreement as of a decree.”

4. In view of the settlement arrived at between the parties, these appeals are disposed of as follows:

1) Mat Appeal No. 150 of 2015 is disposed of in terms of the compromise. If the wife complies with the terms of the compromise and the wife and husband file an application under Section 13B of the Hindu Marriage Act and after the expiry of six months both parties appear before court, the decree of divorce granted by the court in O.P.No. 945 of 2009 shall stand set aside. If any of the parties fail to comply with the procedural formalities in the matter of filing and prosecuting the application under Section 13B of the Act, the other party would be entitled to approach this Court by filing an application in Mat Appeal No. 150 of 2015

in which event the Mat Appeal shall stand restored to file. If the parties comply with the conditions and the application under Section 13B of the Hindu Marriage Act is ripe for disposal, the decree of divorce granted in O.P.No.945 of 2009 would have no operation at all. If the wife fails to prosecute the application under Section 13B of the Act, the decree granted in O.P.No.945 of 2009 shall stand revived and the Mat Appeal No.150 of 2015 shall be treated as dismissed.

2) G.O.P.Nos.775 of 2009 and 100 of 2011 are disposed of in terms of the settlement.

Sd/-
K.T. SANKARAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

ks.

True copy

P.S. (Hr.Gr.)To Judge

