

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

Mat.Appeal.No. 440 of 2015

OP.NO.690/2015 OF FAMILY COURT, ERNAKULAM, ATED 24/4/15

APPELLANT/PETITIONER/PETITIONER:

**PRASANTH SATHYAVAN, AGED 38 YEARS
S/O M.K.SATHYAVAN, RESIDING AT FLAT NO.103, BHAGYAM
SAMRUDHI, PLOT NO.5, PANCHAYATH ROAD,
IST CROSS STREET, PERUNGUDI, CHENNAI-600093.**

**BY ADVS.SRI.R.MANOJ
SMT.LEKHA SANKAR
SMT.P.P.BLESSY MOL**

RESPONDENT(S)/RESPONDENT/RESPONDENT:

**SINDHU GEORGE, AGED 33 YEARS,
VELIANNOOR HOUSE, EAST VAZHAPPILLY, MUVATTUPUZHA,
ERNAKULAM-686673, PRESENTLY RESIDING AT FLAT NO.9B
DD SILVER STONE APARTMENT, VADUTHALA,
ERNAKULAM DISTRICT.**

**THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

C.K.ABDUL REHIM & K.RAMAKRISHNAN, JJ.

Mat. Appeal.NO. 440 of 2015

Dated this the 26th day of May, 2015

JUDGMENT

Abdul Rehim,J.

Challenge in this appeal is against the order passed by the Family Court, Ernakulam in I.A.No.1500/2015 in OP.No.690/2015 dt. 25.4.2015. The application before the Family Court was filed by the appellant herein under section 12(1) of the Guardians and Wards Act 1890 seeking custody of his minor child, Archana Prasanth @ Achu. By the impugned order the Family Court has dismissed the interim application on the ground that neither the appellant nor his counsel was present before the said court on 25.4.2015, despite production of the child by the respondent herein. It is evident that the dismissal of the interim application is not on merits, but on default of the appellant. The appropriate remedy left open to the appellant is to move before that court seeking restoration of the application.

2. Under such circumstances we are of the considered opinion that this appeal is not the proper remedy.

3. Hence the above appeal is hereby dismissed, without prejudice to rights of the appellant to move before the Family Court seeking restoration of the interim application.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

