

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

Mat.Appeal.No. 649 of 2007

OP 668/2003 of FAMILY COURT,KOZHICODE, DATED 22-05-2007

APPELLANT(S)/1ST RESPONDENT IN OP 668/2003::

RESHMA, D/O.RAJU, AGED 24 YEARS,
CHERIYA KIZHAKKAYIL, PAZHANKAVU, POST ADAKKATHERU
VADAKARA.

BY ADV. SRI.P.M.HABEEB

RESPONDENT(S)/PETITIONER AND R2 IN OP 668/2003::

1. A.K.RAMESAN, S/O.KUNHIKANARAN,
AGED 33 YEARS, KARUVOTTKUNI, PERUVATTOOR AMSOM
DESOM, KOYILANDY TALUK.
2. SHYJU.K.K., S/O.DAMODARAN,
KARUVOTTKUNI, PERUVATTOOR AMSOM DESOMM
KOYILANDY TALUK. (WORKING PLACE), M.P.PL HQ COY, 27
MADRAS, C/O.99 A.P.O.

BY ADVS. SRI.THOMAS ANTONY
SMT.CHARISMA[CONCILIATOR]
SMT.RADHIKA[CONCILIATOR]
SMT.BINDU SREEKUMAR[CONCILIATOR]

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 05-06-2015,
ALONG WITH MFA. 28/2008, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

PJ

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

**Mat. Appeal No. 649 OF 2007
&
M.F.A (G & W) No. 28 OF 2008**

DATED THIS THE 5th DAY OF JUNE, 2015

J U D G M E N T

K. Ramakrishnan, J:

Mat. Appeal 649/2007 was filed by the 1st respondent against the order of divorce granted by the Family Court, Kozhikode in OP 668/2003 on the ground of adultery. MFA (G&W) 28/2008 was filed by the same appellant against the order of permanent custody of the child granted to the respondent herein in OP 220/2004. During pendency of the proceedings before this court the matter has been referred to mediation and the parties have settled the dispute between them in the mediation. On the basis of the settlement, they have decided to separate, by filing a joint petition for divorce before this court. Accordingly I.A. 3578/2014 was filed before this court in Mat. Appeal 649/2007 for granting divorce by mutual consent. As per order dated 27-11-2014, this application was directed to be posted after 6 months to consider the joint petition for

divorce. Accordingly, on the last hearing day, namely 01-06-2015, the 2nd petitioner in IA has appeared before this court and she had stated that the matter has been settled between them and the marriage between them has been irretrievably broken down and it is not possible for them to live as husband and wife and there is no possibility of reunion. Since the 1st petitioner was not present to ascertain as to whether they are sticking on the settlement, it was posted today. Today the 1st petitioner in the I.A is appeared. He also stated that there is no possibility of reunion and the marriage has been irretrievably broken down and they have settled the issues in the mediation and he has no objection in passing a decree on mutual consent setting aside the order of divorce passed on the ground of adultery. This court is satisfied that the marital relationship between the appellant and respondent has been irretrievably broken down and there is no possibility of reunion. As per the mediation agreement they have settled all the issues regarding the monetary claims and also custody of the child. The mediation agreement dated

11-11-2014 is also made part of this common judgment. Accordingly the settlement as per mediation agreement is accepted and the decree and judgment passed by the court below in both these appeals are set aside and the appeals are disposed of in terms of the settlement and allowing IA 3578/2014 the marriage between the appellant and the respondent in Mat. Appeal 649/2007 is dissolved by mutual consent under Section 13B of the Hindu Marriages Act. Decree and judgment in OP (G&W) 270/2004 of the lower court is set aside and the appeal is disposed of in terms of the mediation agreement entered into between the parties regarding the issues between them including custody of minor which will form part of the common judgment. This court satisfied that the compromise is for the benefit of the minor. Both appeals are disposed of in terms of the settlement arrived between the parties accordingly.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge