

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 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Mat.Appeal.No. 838 of 2014 (F)

AGAINST THE ORDER IN OP 350/2011 of FAMILY COURT, KOLLAM
DT. 25/8/14

APPELLANTS/PETITIONERS:

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1. RAJI R.S. AGED 40 YEARS
D/O.P.RAVEENDRAN, THOTTINKARAVEEDU, VALATHUNGAL
ERAVIPURAM, KOLLAM.
 2. DEVIKA ASHOK @ CHANDANA, AGED 16 YEARS,
D/O.RAJI R.S., THOTTINKARAVEEDU, VALATHUNGAL
ERAVIPURAM,
KOLLAM (THE 2ND PETITIONER MINOR IS REP. BY HER MOTHER
RAJI R.S. AS NEXT FRIEND IN THIS CASE)

BY ADV. SRI.K.K.SATHEESH

RESPONDENT/RESPONDENT:

C.ASHOKAN, AGED 48 YEARS
S/O.K.CHELLAPPAN
SREEVILASOM VEEDU FROM CHAZHIPURATHU VILAYIL PUTHENVEEDU
ULLYACOVIL, KOLLAM-688011.

BY ADV. SRI.MILLU DANDAPANI

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K. T. SANKARAN
&
BABU MATHEW P. JOSEPH, JJ.**

Mat. Appeal No.838 of 2014

Dated this the 17th day of March, 2015

JUDGMENT

K. T. Sankaran, J.

The appellants filed O.P. No.350 of 2011 on the file of the Family Court, Kollam against the respondent claiming maintenance at the rate of ₹ 10,000/- per month to appellant No.2. It is stated that the respondent filed I.A. No.1325 of 2011 challenging the maintainability of the petition. No separate order was passed in I.A. No.1325 of 2011. The court below disposed of O.P. No.350 of 2011 as per the following order:

“IA 1325/11 allowed. OP is dismissed as not maintainable.”

2. The order passed by the Family Court is a non-speaking order. How the court arrived at the conclusion that the OP is not maintainable is not clear to us. It is necessary that the order should be a speaking order and the appellate court should be able to assess the situation and to find whether the order passed by the Family Court is proper or not. Here, we are denied an

opportunity to consider the question whether the reasoning and conclusions arrived at by the court below were justified. There is nothing in the order passed by the court below to indicate that the court applied its mind and decided any issue.

3. Accordingly, the order dated 25th August, 2014 in O.P. No.350 of 2011 is set aside and the matter is remitted to the court below for fresh disposal. The court below shall pass a speaking order after affording an opportunity of being heard to both sides. Parties shall appear before the court below on 9th April, 2015.

Sd/-
K. T. SANKARAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

