

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

Mat.Appeal.No. 250 of 2010 (C)

AGAINST THE ORDER IN OP 291/2009 of FAMILY COURT,KOZHIKODE DATED
01/12/2009

APPELLANT/RESPONDENT:

MOHANDAS, AGED 35 YEARS,
S/O JID BAHADUR SINGH, RESIDING AT MANGALAKKAD HOUSE, P.O.-
ANAKKUZHIKKARA, KUTTIKKAATTOOR, KOZHIKODE DISTRICT.

BY ADV. SRI.M.S.VINEETH

RESPONDENT/PETITIONER:

RAJI P.C., AGED 26 YEARS, D/O RAJAN P.C.
NEDUTHARAPARAMBIL HOUSE, PAYYOLI, MELADI-P.O
KOYILANDY, KOZHIKODE DISTRICT.

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON
13-08-2015, ALONG WITH MA. 463/2010, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**P. R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

Mat. Appeal Nos.250 & 463 of 2010

Dated this the 13th day of August, 2015

JUDGMENT

P. R. Ramachandra Menon, J.

These appeals arise from two different orders passed by the Family Court, Kozhikode. The first one is in O.P. No.291 of 2009 and the other one is in O.P. No.261 of 2009 passed on the same date. The appellant and the respondent are husband and wife respectively. Because of the rupture of the marital bond, three different proceedings were filed and were being pursued before the Family Court. O.P. No.261 of 2009 was filed by the appellant seeking for a decree of divorce; whereas O.P. No.291 of 2009 was filed by the respondent for a decree for restitution of conjugal rights. Apart from these two cases, M.C. No.106 of 2009 was also filed by the respondent claiming maintenance. On conclusion of the trial, a common verdict was passed by the

Family Court on the 1st December, 2009, as per which O.P. No.261 of 2009 preferred by the appellant was dismissed; whereas O.P. No.291 of 2009 preferred by the respondent was allowed. In M.C.106 of 2009 an order was passed granting maintenance at the rate of ₹1,000/- per month to the first petitioner therein and at the rate of ₹500/- per month to the second petitioner from 02/04/2009, i.e., the date of the petition. As mentioned already, the appeals arise from O.P. Nos.291 of 2009 and 261 of 2009.

2. During the pendency of the above proceedings, there was an attempt to work out settlement with the intervention of trained mediators of this Court. In furtherance to the orders passed by this Court in this regard, the matter was referred for mediation. It has now been reported by the mediator, as per report dated 28/01/2015, that the matter has been mediated and settled, also producing terms of the settlement.

3. Heard both the sides.

4. The Memorandum of Settlement arrived at under

Section 89 of the Code of Civil Procedure, read with Rules 24 and 25 of the Civil Procedure (Alternative Dispute Resolution), Rules, 2008 reveals the following terms:

- “1.All the litigations pending or otherwise between the parties which are numbered as O.P. No.291/2009, O.P. No.261/2009 and M.C. 106/2009 before the Family Court, Kozhikode and M.C. No.39/2009 before the JFCM, Payooli are settled on the following terms.
- 2.Appellant Mohandas will pay a total sum of Rs.6,00,000/- (Rupees Six Lakhs only) to the respondent Raji as a full and final settlement of all the disputes.
- 3.Both the parties agreed to file joint application for divorce before the appropriate court within one month.
- 4.The appellant will pay maintenance at the rate of Rs.1,000/- per month to his daughter Aswathy. The said amount will be deposited in the bank account No. given by the respondent on or before 5th of every month. The first payment will be effected in the month of February 2015.
- 5.The appellant agreed that he shall meet the educational expenses of his daughter Aswathy according to his financial capacity.
- 6.Out of the settlement amount of Rs.6,00,000/-, 50% will be paid by the appellant to the respondent at the time of filing the joint

application of divorce and the remaining amount will be paid at the date of giving evidence on divorce petition.

7. There will not be any financial or any other claim whatsoever between the parties i.e. Mohandas and Raji P.C. in future.

Dated this the 28th day of January, 2015”

Learned counsel appearing for the appellant submits that 50% of the total settlement amount of ₹6 lakh has already been satisfied against proper receipt, at the time of filing the joint application for divorce. It is stated that the balance amount, as per the terms of the settlement, has to be paid at the time of giving evidence in the divorce petition and hence that the time to satisfy the said amount is still to come. It is also stated that the liability to satisfy maintenance at the rate of ₹1,000/- per month to the daughter Aswathy is covered by Clause-4 and the said amount is to be paid to the respondent on or before 5th of every month. The learned counsel for the appellant submits that the said Clause is also being given effect to and monthly maintenance is being given in respect of the

daughter, as provided in the settlement.

In the above circumstances, both these appeals are disposed of in terms of the settlement, leaving it open to the parties to give effect to the terms of the settlement. If there is any violation, it is open for the parties concerned to move the Family Court for appropriate relief in accordance with law.

Sd/-

**P. R. RAMACHANDRA MENON
JUDGE**

Sd/-

**BABU MATHEW P. JOSEPH
JUDGE**

kns/-

//TRUE COPY//

P.A. TO JUDGE

