

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

Mat.Appeal.No. 1000 of 2014 ()

AGAINST THE JUDGMENT DATED 30-08-2014 IN OP NO.600/2012 OF
FAMILY COURT, THALASSERY

APPELLANT(S)/RESPONDENT:

BABY JOSE, AGED 39 YEARS
S/O.KURIYA JOSE, RESIDING AT ELAVATHINGAL HOUSE
KUNNUKARA P.O., ALUVA, ERNAKULAM DISTRICT.

BY ADVS.SRI.T.MADHU
SRI.P.O.THOMAS

RESPONDENT(S)/PETITIONERS:

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1. KRIPA MARIYA
D/O.P.DIVAKARAN, AGED 31 YEARS
RESIDING AT LATHIKA NIVAS
THIRUVANGAD P.O., THALASSERY TALUK
KANNUR DISTRICT, PIN - 670 103.
 2. PRITHVI (MINOR), AGED 5½ YEARS
RESIDING AT LATHIKA NIVAS, THIRUVANGAD P.O.
THALASSERY TALUK
KANNUR DISTRICT REPRESENTED BY HIS MOTHER
AND GUARDIAN KRIPA MARIYA
THE 1ST RESPONDENT HEREIN - 670 103.

THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION ON
20-02-2015 ALONG WITH R.P.(F.C.) NO.418/2014, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

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

Mat.Appeal No.1000 of 2014

&

R.P.(F.C.) No.418 of 2014

Dated this the 20th day of February, 2015

JUDGMENT

K.T.Sankaran, J.

The respondents filed O.P.No.600 of 2012 and M.C.No.302 of 2012 against the appellant claiming maintenance and past maintenance. The Family Court, by a common judgment dated 30th August, 2014, allowed past maintenance to the tune of ₹93,000/- and granted monthly maintenance allowance @ ₹2,000/- per month to the first respondent and ₹1,000/- to the second respondent from the date of petition. Mat.Appeal No.1000 of 2014 is filed challenging the judgment in O.P.No.600 of 2012 while R.P.(F.C.) No.418 of 2014 is filed challenging the judgment in M.C.No.302 of 2012. When the Mat.Appeal and R.P.(F.C.) 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 settlement dated 6th January, 2015 was signed by the parties. The terms of the memorandum of settlement are the following :

“1. The petitioner Mr.Baby Jose and the 1st respondent Mrs.Kripa Mariya appeared in Mediation on 06/01/2015 at 12.30 P.M. the matter discussed and the dispute is settled in terms of the following conditions. The 2nd respondent is the minor son of the petitioner and the 1st respondent.

2. The petitioner agreed to pay ₹75,000/- to the 1st respondent within 9 months and the 1st respondent agreed for the same. The petitioner agreed to pay an amount of ₹40,000/- within 3 months and the balance of ₹35,000/- will be paid within further 6 months. The 1st respondent agreed not pursue with the judgments in M.C.49/13 and O.P.No.600/12 on the files of the Family Court, Thalassery. The 1st respondent agrees to withdraw all cases pending against the petitioner and his mother on condition that the petitioner makes the payment as above and continues to

pay maintenance at the rate of ₹2,000/- to the 1st respondent and at the rate of ₹1,000/- to the 2nd respondent.

3. The monthly maintenance will be paid on or before 5th of every month commencing from 5/02/2015. The maintenance to the son will be paid to the bank account to be furnished by the 1st respondent to the petitioner and to be opened in the name of the 2nd respondent. During summer vacation the petitioner is entitled to get the custody of the child for one week if the child is willing.

4. The petitioner can visit the son, the 2nd respondent once in every month and for that the 1st respondent has no objections. On that day on 10O' clock morning petitioner can take custody of the child and give back the child by 4O' clock evening on that date. The date of visit will be on holidays.

5. If any default committed in these conditions by both parties, both parties can execute these terms as a decree through court. If all the conditions are satisfied there will be no further claims between the petitioner 1st respondent with regard to all the cases pending between both parties in High Court as

well as other courts. This agreement is applicable to the Mat.Appeal No.1000/2014 now pending one the files of the Honourable High Court of Kerala as well.”

The learned counsel appearing for the parties submitted that in paragraph 2 of the compromise there is a reference to M.C.No.49 of 2013 and it is a mistake. The correct number of the M.C. is 302 of 2012. This submission is recorded. The memorandum of settlement is recorded and the Mat.Appeal and R.P.(F.C.) is disposed of in terms thereof.

**K.T.SANKARAN
JUDGE**

**BABU MATHEW P.JOSEPH
JUDGE**