

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

Mat.Appeal.No. 1110 of 2014 ()

APPELLANT(S)/RESPONDENTS 1& 2:

1. ASHA MURALI AGED 27 YEARS
D/O.MURALEEDHRAN PILLAI, R/A.SOPANAM
KILIKKOLLOOR VILLAGE, KALLUMTHAZHAM P O,
KOLLAM DIST, PIN-691004
2. BEENA AGED 55 YEARS
W/O.MURALEEDHRAN PILLAI, SOPANAM,
KILIKKOLLOOR VILLAGE
KALLUMTHAZHAM P O, KOLLAM DIST, PIN-691004

BY ADVS.SRI.M.KANNAN
SRI.AJEESH S.BRITE
SRI.K.G.KAILASNADH

RESPONDENT(S)/PETITIONER AND 3RD RESPONDENT:

1. SATHISH PILLAI
S/O.VASUKUTTAN PILLAI, SERGEANT, SERVICE NO 781576-S
SOUTHERN AIR COMMAND, AKKULAM
THIRUVANANTHAPURAM FROM THANNIKKAL VEEDU
CHANDANATHOPPU P O, KOLLAM-691014.
2. THE BRANCH MANAGER, KOLLAM DIST. CO-OPERATIVE BANK,
CHATHANOR P.O., KOLLAM -691 104.

THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

acd

V.K. MOHANAN & P.D. RAJAN, JJ.

Mat.Appeal No. 1110 of 2014

Dated this the 13th day of January, 2015

JUDGMENT

P.D.Rajan,J.

The 1st appellant and the 1st respondent are wife and husband. O.P (HMA) No.1034/2014 was filed by the 1st respondent, before the Family Court, Kollam for dissolution of marriage between the 1st appellant and the 1st respondent on the ground of cruelty. Their marriage was solemnized on 18.3.2012 at Sana Auditorium, Kilikolloor at Kollam as per the Hindu customary rites. Along with the divorce petition, the 1st respondent filed an interlocutory application (I.A.No.2086/2014) before the Family Court with a prayer for injunction against the appellants restraining them from operating the bank locker in the Kollam District Co-operative

Bank Ltd, Chathannoor.

2. The learned Judge of the Family Court heard the petitioner in the above I.A. and observed that prima facie case is made out. Delay in sending notice will defeat the purpose of the injunction sought for. Hence, interim injunction as prayed for was granted until further orders and directed to comply with Order 39 Rule 3. Hence the appellants approached this Court to set aside the order dated 26-09-2014 in I.A.No.2086/2014.

3. We heard the learned counsel appearing for the appellants, who contended that no opportunity was given to the 1st respondent for filing objection. The order in I.A. shows that an interim injunction was granted without giving notice to the appellants. The Family Court also appointed a Commission to prepare an inventory of the ornaments in the locker belonging to the 2nd appellant and Adv. Anju

Rajendran has been appointed as Commissioner, who is associated with the respondent's counsel's office. The learned counsel for the appellants pointed out that the respondent has no right to restrain from operating the bank locker, which belonged to the 2nd appellant. It is true that when prima facie case was made out against the appellants in the trial Court, an interim order of injunction has been granted in favour of the 1st respondent. But, here, no reasons are stated, why such an injunction was granted and whether there was any threat from the side of the wife towards the husband or the wife had expressed her intention to remove all the properties from the locker for defrauding the husband. In the absence of such allegation, the Family Court ought to have granted injunction only after hearing the objection of the appellant. When such reasons are not made out in the

above order, the appellants have a right to challenge the above I.A. in the Family Court by filing an objection. Therefore, the order passed in I.A.No.1118/2014 in O.P.No.1034/2014 is to be set aside. Accordingly, I.A.No.1118/2014 in O.P.No.1034/2014 is set aside and the Family Court is directed to hear the objection of the appellants and dispose the above I.A. according to law.

Accordingly, this Mat.Appeal is disposed of.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

