

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

OP(C).No. 770 of 2015 (O)

OP(HAM).NO. 384/2014 OF I ADDL.DISTRICT COURT, THRISSUR DATED 28-08-2014

PETITIONER(S):

1. T.C.MAHESH, S/O.CHELLAPPAN, AGED 43 YEARS,
RC WEST MINSTER, VICTORIA C3, KAMARAJ ROAD,
KODUNGAYOOR, CHENNAI-600 118.
2. AYSHA MAHESH, W/O.T.C.MAHESH, AGED 38 YEARS,
RC WEST MINSTER, VICTORIA C3, KAMARAJ ROAD,
KODUNGAYOOR, CHENNAI-600 118.

BY ADVS.SRI.C.A.CHACKO
SRI.SEBY JOSEPH
SMT.C.M.CHARISMA

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
SOCIAL WELFARE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.
2. QUEEN MARY FOUNDLING HOME,
REPRESENTED BY ITS MANAGING TRUSTEE,
RAMALIPADAM, THAIKATTUSSERY,
THRISSUR DISTRICT.

R1 BY GOVERNMENT PLEADER SRI.REJI JOSEPH

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

OP(C).No. 770 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - TRUE COPY OF OP(HAM)NO.384/2014 FILED BY PETITIONERS
ON 23-5-14

EXT.P2 - TRUE COPY OF THE ORDER DATED 28-8-2014 IN OP(HAM)NO.384/2014

EXT.P3 - TRUE COPY OF THE OFFICE MEMORANDUM IN D3 54664/2014 DATED
14-8-2014

EXT.P4 - TRUE COPY OF THE CIRCULAR DATED 24-5-2010 ISSUED BY 1ST
RESPONDENT

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

B. KEMAL PASHA, J.

.....
O.P.(C) No.770 of 2015
.....

Dated this the 7th day of August, 2015

J U D G M E N T

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Heard learned counsel for the petitioner and learned Government Pleader.

2. The child in question is a surrendered child and not an abandoned child. In the case of a surrendered child, as per clause 16(2) and (5) of the guidelines issued by the Ministry of Women and Children Development, any certificate from the Child Welfare Committee showing that the child is legally free for adoption, is not required. Such a certificate is required in cases wherein an abandoned child is sought for adoption.

3. The application in question was filed prior to the coming into force of the new Rules issued by the State Government. After the coming into force of the new Rules issued by the State Government, such a certificate is

required in the case of an abandoned child as well as surrendered child. Matters being so, Ext.P2 order passed by the court below is liable to be set aside.

In the result, this O.P.(Civil) is allowed and Ext.P2 order is set aside. The 1st Additional District Court, Thrissur is directed to dispose of Ext.P1, without insisting for the production of legally free for adoption certificate from the Child Welfare Committee. The court below shall dispose of the matter, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/07/08

// True Copy //

PA to Judge