

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

OP(Cr1.).No. 77 of 2015 (Q)

AGAINST C.M.P NO.89/2013 IN M.C NO.135/2012 ON THE FILE OF THE
FAMILY COURT, THIRUVANANTHAPURAM

PETITIONERS/PETITIONERS:

1. CHANDRAMATHI, D/O.JANAKI,
RESIDING AT T.C.NO.43/269, LEELA BHAVAN, ERA-55
THOTTAM, MANACAUD P.O,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM
NOW RESIDING AT KOOTUMALA,
VAYALA P.O, KOTTAYAM.
2. VINAYAK KUMAR, AGED 15 YEARS,
S/O.SASIKUMAR,
REPRESENTED BY 1ST PETITIONER
RESIDING AT T.C.NO.43/269, LEELA BHAVAN, ERA-55
THOTTAM, MANACAUD P.O,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM
NOW RESIDING AT KOOTUMALA
VAYALA P.O, KOTTAYAM.
3. KAILAS KUMAR, AGED 12 YEARS,
S/O.SASIKUMAR,
REPRESENTED BY 1ST PETITIONER
RESIDING AT T.C.NO.43/269, LEELA BHAVAN, ERA-55,
THOTTAM, MANACAUD P.O,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM
NOW RESIDING AT KOOTUMALA
VAYALA P.O, KOTTAYAM.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT/COUNTER PETITIONER:

SASIKUMAR, AGED 54 YEARS,
S/O.GOPALAN,
RESIDING AT T.C.NO.43/269, LEELA BHAVAN, ERA-55,
THOTTAM, MANACAUD P.O,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM.

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Crl.).No. 77 of 2015 (Q)

APPENDIX

PETITIONERS' EXHIBITS

EXT.P1 - COPY OF THE JUDGMENT IN M.C.NO.135/2012 DATED 23-4-2013

EXT.P2 - COPY OF THE CMP NO.89/2013 FILED BEFORE THE FAMILY COURT
THIRUVANANTHAPURAM.

EXT.P3 - COPY OF THE MEMORANDUM OF O.P(CRL). NO.275/2014

EXT.P4 - COPY OF THE JUDGMENT IN O.P(CRL.)NO.275/2014 DATED
17-12-2014

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

O.P(Crl) No.77 of 2015

Dated this the 4th day of March, 2015

J U D G M E N T

The petitioners herein have obtained a maintenance order from the Family Court, Thiruvananthapuram in M.C No.135/2012. They now allege inaction on the part of the learned trial judge in the matter of execution. Ext.P2 is a copy of the execution petition filed before the trial court. It is alleged that inspite of repeated process, the presence of the respondent could not be procured in the execution proceedings. Now they seek a writ of mandamus directing the court below to ensure production of the respondent before the said court. No doubt, such a writ cannot be issued for such a purpose. This is an original petition brought under Article 227 of the Constitution of India. Writ jurisdiction cannot be exercised by this Court under Article 227 of the Constitution of India. Instead of seeking appropriate direction under Article 227 of the Constitution of India in exercise of supervisory powers of this Court, the petitioners wrongly seek a writ of mandamus under Article 227

of the Constitution of India. This Original Petition can be closed without prejudice to the right of the petitioners to bring proper proceeding.

Accordingly, this Original Petition is closed without prejudice to the right of the petitioners to bring a proper application for appropriate directions to the court below under Article 227 of the Constitution of India.

**P.UBAID
JUDGE**

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