

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

OP(Cr1.).No. 82 of 2015 (Q)

AGAINST IN C.M.P NO.89/2013 IN M.C NO.135/2012 of FAMILY COURT,
THIRUVANANTHAPURAM

PETITIONERS/PETITIONERS:

1. CHANDRAMATHI, AGED 48 YEARS,
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 PO, KOTTAYAM - 685 001.
2. VINAYAK KUMAR, AGED 15 YEARS, S/O.SASIKUMAR
REPRESENTED BY 1ST PETITIONER MOTHER/GUARDIAN
RESIDING AT T.C.NO.43/269, LEELA BHAVAN ERA-55,
THOTTAM, MANACAUD P.O,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM - 695 001
NOW RESIDING AT KOOTUMALA
VAYALA P.O, KOTTAYAM - 685 001.
3. KAILAS KUMAR, AGED 12 YEARS, S/O.SASIKUMAR,
REPRESENTED BY 1ST PETITIONER, MOTHER/GUARDIAN
RESIDING AT T.C.NO.43/269, LEELA BHAVAN, ERA-55,
THOTTAM, MANACAUD P.O
MUTTATHARA VILLAGE,
THIRUVANANTHAPURAM - 695 001
NOW RESIDING AT KOOTUMALA
VAYALA PO, KOTTAYAM - 685 001.

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 - 695 001.

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Cr1.).No. 82 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 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 - COY OF THE JUDGMENT IN OP.(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.82 of 2015

Dated this the 26th day of March, 2015

J U D G M E N T

The petitioners have obtained a maintenance order under Section 125 of the Code of Criminal Procedure from the Family Court, Thiruvananthapuram in M.C No.135/2012. The said order is now being executed. The petitioner's grievance is that the respondent has in fact been evading process, and that the trial court is also not serious on the execution applied for in C.M.P No.89/2013. The report submitted by the learned Family Court judge, as required by this Court, shows that warrant of arrest is now pending against the respondent. On 24.9.2013 the respondent entered appearance and sought time to file objection. The proceeding thus went on, granting opportunities to the respondent to file objection, and to make payment reasonably. When he failed to make payment, warrant of arrest was issued against him on 8.8.2014. From the diary extract submitted by the learned Judge, I find nothing to show that the trial court is not serious on execution. Anyway, the petitioner's grievance, as persons, who have obtained maintenance order, cannot be

ignored. The learned trial judge will have to expedite steps, and if necessary, proceed against the police officer, who failed in his duty in executing the process issued from the court. I feel it inappropriate to make a direction for time bound disposal of the execution proceeding. However, the trial court is hereby directed to call for explanation from the concerned police officer, and if necessary, proceed against the police officer appropriately, in case he again failed to execute the process.

With these observations this Original Petition is closed.

Communicate a copy of this order immediately to the court below.

**P.UBAID
JUDGE**

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