

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

O.P.(Crl.).No. 402 of 2015 (Q)

PETITIONERS:

- 1. DR.RAM PRADEEP, AGED 54 YEARS
S/O.R.K.K.NAIR, KRISHNA'S SKIN COSMETOLOGY
& MEDICAL CENTRE, #1, BALAIAH AVENUE
OFF LUZ CHURCH ROAD, MYLAPORE, CHENNAI-4**
- 2. DR.VIDYA, W/O.RAM PRADEEP
KRISHNA'S SKIN COSMETOLOGY & MEDICAL CENTRE
#1, BALAIAH AVENUE, OFF LUZ CHURCH ROAD
MYLAPORE, CHENNAI-4**

**BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDENTS:

- 1. SREELEKSHMI S., D/O.DR.SETHUMADHAVAN
KUNNAPPALLY HOUSE, M.G.ROAD
ERNAKULAM 682 011.**
- 2. SAMANWITHA (MINOR), REPRESENTED BY
NEXT FRIED MOTHER, D/O.ADVOCATE
SREELAKSHMI, KUNNAPPALLY HOUSE, M.G.ROAD
ERNAKULAM 682 011.**
- 3. DR.V.K.PRASHANTH, S/O.R.K.K.NAIR
C/O.MEDICO CLINIC, P.O.BOX NO.3892
NAIF ROAD, DEIRA, DUBAI, UAE.**

**R1-R2 BY ADV. SRI.S.K.PREMRAJ
R1-R2 BY ADV. SRI.C.ANILKUMAR (KALLESSERIL)
R3 BY ADV. SRI.C.S.DIAS
R3 BY ADV. SRI.N.K.SUBRAMANIAN
R3 BY ADV. SMT.B.BINDU
R3 BY ADV. SMT.P.K.DHANYA
R3 BY ADV. SRI.T.V.SREEJITH**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 18-12-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

-
- P1- THE PHOTOSTAT COPY OF THE APPLICATION FILED BY RESPONDENTS 1 AND 2 BEFORE THE CJM
- P2- THE PHOTOSTAT COPY OF THIS JUDGMENT OF THIS HONOURABLE COURT IN WPC 1452/2014 DATED 20.5.14
- P3- A TRUE COPY OF THE SAID OBJECTION FILED BY THE PETITIONERS DATED 25.11.2014
- P4- THE TRUE COPY OF THE AFFIDAVIT AND THE PETITION FILED BY THE FIRST RESPONDENT IN M.C.1/2014
- P5- A PHOTOSTAT COPY OF THE WRITTEN OBJECTION FILED BY PETITIONERS
- P6- PHOTOSTAT COPY OF THE WILL DATED 2.4.2009
- P7- PHOTOSTAT COPY OF THE INTERIM REPORT FILED BY MEDIATOR
- P8- PHOTOSTAT COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN TRP (CRL) NO.58/2015 DATED 26.10.2015
- P9- PHOTOSTAT COPY OF THE INTERIM ORDER IN MC. NO.19/2014

RESPONDENTS' EXHIBITS

-
- Ext.R1(a) COPY OF THE OBJECTIONS DATED 30.01.2015 SENT BY E-MAIL TO THE MEDIATOR BY THE COUNSEL FOR THE RESPONDENT NOS.1 AND 2
- Ext.R1(b) COPY OF THE PETITION IN O.P.NO.1606 OF 2015 BEFORE THE FAMILY COURT, ERNAKULAM
- Ext.R1(c) COPY OF THE LAWYER NOTICE DATED 22.09.2015 ISSUED TO THE PETITIONERS NAD THE 3RD RESPONDENT
- Ext.R1(d) COPY OF the AFFIDAVIT ND PETITION FILED BY THE 1ST RESPONDENT IN M.C.NO.1 OF 2014 ON FILES OF THE HONOURABLE CJM COURT, ERNAKULAM
- Ext.R1(e) COPY OF THE COUNTER AFFIDAVIT FILED BY THE 1ST PETITIONER HEREIN IN W.P.(C)No.1452/2014 ON FILES OF THIS HONOURABLE COURT
- Ext.R1(f) COPY OF THE PHOTOGRAPHS TAKEN ON 04.12.2015, 07.12.2015 AND 08.12.2015

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

O.P.(Crl) No.402 of 2015

Dated this the 18th day of December, 2015

JUDGMENT

The petitioners herein are the respondent Nos.2 and 3 in M.C.No.19/2014 of the Chief Judicial Magistrate Court, Ernakulam. It is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the D.V.Act'). The case now stands transferred to the Court of the learned Chief Judicial Magistrate, Thrissur. It is submitted that it is filed there as M.C.No.25/2015. Before transfer, an order was passed by the learned Chief Judicial Magistrate, Ernakulam under Section 23 of the D.V.Act. The petitioners herein are aggrieved by the said order. In this original petition brought under Section 227 of the Constitution of India, the petitioners seek a modification of the said order passed by the trial court.

2. The situation is covered by Section 25 of the D.V.Act. If any modification of any order passed by the trial court is required by any of the parties, the aggrieved person will have to file an

application before the trial court under Section 25 of the D.V.Act. Now, the case stands transferred to the Court of the Chief Judicial Magistrate, Thrissur. It is submitted that the petitioners have already made an application under Section 25 of the D.V.Act, and it is now being considered by the learned Chief Judicial Magistrate, Thrissur. The petitioners will have to seek their remedy there. They can come to this Court only after decision is taken by the trial court. It is appropriate that the trial court be directed to expedite consideration and disposal of the application filed by the petitioners under Section 25 of the D.V.Act.

In the result, this original petition is disposed of with a direction to the learned Chief Judicial Magistrate, Thrissur that the application filed by the petitioners under Section 25 of the D.V. Act in the above proceeding shall be expeditiously considered and decided appropriately.

Sd/-

P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge