

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

OP (FC) .No. 15 of 2015 (R)

O P NO.1542/12 AND O.P.NO.74/13 of FAMILY COURT,ERNAKULAM

PETITIONER(S)/PETITIONER:

LEKSHMI DEVI L., AGED 27 YEARS
D/O.UNNIKRISHNAN, LAKSHMI HOUSE, VADAKKUMPURAM
CHENDAMANGALAM, ERNAKULAM, PIN-683521.

BY ADVS.SRI.T.M.RAMAN KARTHA
SMT.O.A.NURIYA
SMT.SYAMA MOHAN

RESPONDENT(S)/RESPONDENTS:

ANOOP V, AGED 31 YEARS
S/O.VASUDEVAN NAIR, KOOTAPLANGAL PADIYARAKKALAYIL
VAIKOMMURI, MANDIRAM.P.O, RANNI VILLAGE
PIN-689672, NOW RESIDING AT GAYATHRI, CHIRAKKAKAM.P.O
VARAPPUZHA, PIN-683517.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC) .No. 15 of 2015 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 TRUE COPY OF O.P.1542/2012 BEFORE THE FAMILY COURT,ERNAKULAM.

EXT.P2 TRUE COPY OF O.P.74/2013 BEFORE THE FAMILY COURT,ERNAKULAM.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

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

O.P.(F.C.)No.15 of 2015

Dated this the 2nd day of February, 2015.

J U D G M E N T

P.D.Rajan, J.

This original petition is filed under Article 227 of the Constitution of India for getting the following reliefs :

"1. Call for the records leading to Ext.P1 and P2 and issue appropriate directions to the Family court, Ernakulam to dispose of the same, within a time limit to be specified by this Hon'ble Court ;

and

2. Pass such other and further orders which are deemed to be just and proper in the facts and circumstances of this case."

2. The marriage between the petitioner and the respondent was solemnised on 30.4.2006 as per the Hindu customary rites. After the marriage, both of them resided in the matrimonial house. Due to difference of opinion, their relationship strained. At the time of marriage, the petitioner was given 32 sovereigns of gold and patrimony. When their relationship strained, the petitioner filed

O.P.No.1542/12 for dissolution of marriage and O.P.No.74/13 for recovery of money and gold ornaments from the respondent, in the Family court, Ernakulam. The petitioner submits that, as the respondent in the trial court is not co-operating, she could not get the relief within a time frame. In the circumstance, she approached this Court with this original petition.

3. The learned counsel appearing for the petitioner contended that there is inordinate delay in disposing Exts.P1 and P2 petitions, since the respondent is following a dilatory tactics and the Family court could not complete the trial. The Family court has re-opened the evidence and started the proceedings from the initial stage itself, which has caused inordinate delay.

4. Based upon the submission made by the learned counsel, we obtained a report from the Family court, Ernakulam. Considering the nature of the case, notice to respondent has been dispensed with and perused the

report received from the Family court, Ernakulam. It is clear from the said report that, an Advocate Commissioner was appointed for taking evidence ; but the Advocate Commissioner has not filed any report and enquiry is going on. Due to the non co-operation of the respondent, the Advocate Commissioner could not complete the recording of evidence. In the said circumstance, the learned Family court Judge has directed the parties to appear on 28.1.2015. From the records it is found that the trial is progressing and earnest effort was made by the Family court Judge for disposal of the matters at the earliest. The Family court Judge has directed the parties to cooperate with the Advocate Commissioner to record the evidence at the earliest. In this situation, the Family court requested 6 months time for disposing the above referred matters.

5. From the above observation of the Family court, it is found that the respondent is following a dilatory tactics and for that, strict instruction must be given to the parties

to give evidence for disposing the matters at the earliest. In view of the report of the learned Judge of the Family court, Ernakulam, we are not fixing a time frame for completing the evidence ; but we direct the Family court Judge to dispose the above referred matters at the earliest, as and when the evidence is over.

Accordingly, this original petition is disposed of.

Sd/-

V.K.MOHANAN, Judge

Sd/-

P.D.RAJAN, Judge

ami/

//True copy//

P.A.to Judge