

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

OP (FC).No. 17 of 2015 (R)

AGAINST THE ORDER IN I.A.NO.263/2013 IN OP 431/2013 of FAMILY COURT,
OTTAPPALAM DATED 29.09.2014

PETITIONER(S) :

M.VIKAS AGED 38 YEARS
S/O.INDIRA DEVI, PUNNEKKATH MATATHIL HOUSE
AVANOR P.O, THRISSUR DISTRICT, THRISSUR TALUK.

BY ADVS.SRI.M.H.HANIL KUMAR
SRI.M.R.DHANIL

RESPONDENT(S) :

1. M.P.REMYA, AGED 27 YEARS
D/O.RAMAKRISHNAN NAIR, MANNOOR PANAYAPPILLY HOUSE
IRINGUTTOOR, THIRUMITTAKKODE P.O.
OTTAPALAM TALUK - 679 533.
2. ARYADEVIKRISHNA V.NAMBIAR, (MINOR), AGED 3 YEARS
D/O.M.P.RAMYA, REPRESENTED BY GUARDIAN & MOTHER
M.P.RAMYA, AGED 27 YEARS, D/O.RAMAKRISHNAN NAIR
MANNOOR PANAYAPPILLY HOUSE, IRINGUTTOOR
THIRUMITTAKKODE P.O., OTTAPALAM TALUK - 679 533.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP (FC) .No. 17 of 2015 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: A TRUE COPY OF THE ORIGINAL PETITION NO.357/2012 FILED BEFORE
THE FAMILY COURT, PALAKKAD DATED 20/3/2012.

P2: A TRUE COPY OF THE OBJECTION DATED 6/1/2013.

P3: A TRUE COPY OF THE ORDER I.A 263/2013 IN OP NO.431/2013 DATED
29/9/2014

RESPONDENT(S) ' EXHIBITS

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NIL.

TRUE COPY

PA TO JUDGE.

acd

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

O.P.(FC) No. 17 of 2015

Dated this the 20th day of January, 2015

JUDGMENT

V.K.Mohanana,J.

The above Original Petition (FC) is filed under Article 227 of the Constitution of India challenging the order dated 29.09.2014 in I.A.No.263/2013 in O.P.No.431/2013 before the Family Court, Ottapalam. By the impugned order, the Family Court directed the petitioner herein, who is the respondent in O.P.No.431/2013 and I.A.No.263/2013, to pay an interim maintenance to the claimants therein, who are none other than the wife and daughter of the petitioner respectively at the rate of ₹3,000/- and ₹1500/-. He is also directed to pay ₹5000/- as litigation expenses. The above order is under challenge in this O.P.(FC).

2. We have heard the learned counsel for the petitioner. As we have proposed to dispose of this O.P. (FC) at the admission stage itself, notice to the respondents is dispensed with.

3. The marriage between the petitioner and the 1st respondent was solemnised on 17.5.2009 in accordance with the religious rites and in their wedlock, a daughter, the 2nd respondent was born on 17.8.2010. Soon after the birth of the 2nd respondent, there occurred difference of opinion among the couple and it is alleged that the petitioner failed to maintain his wife and daughter, who are the respondents herein. The petitioner herein initially approached the Family Court, Thrissur seeking divorce against the 1st respondent and the said Original Petition was numbered as O.P.No.1579/2011, subsequently, which was transferred to the Family Court, Palakkad,

wherein it was renumbered as O.P.No.1010/2012. When the Family Court was established at Ottapalam, the case was transferred to the said Court and now it is renumbered and pending as O.P.No.505/2014. The respondents herein filed I.A.No.263/2013 in the above Original Petition claiming interim maintenance respectively at the rate of ₹7500/- and ₹5,000/- to the 1st and 2nd respondents and also seeking litigation expenses of ₹20,000/-. According to the claimants/petitioners in the I.A., the respondent-husband-the petitioner herein is working in Bahrain and he is getting ₹60,000/- as salary. But, the 1st claimant has no job or income. The Court below, after considering the rival contentions, found that the respondent-the petitioner herein is the husband of the 1st claimant and father of the 2nd claimant and as such, he is bound to maintain the claimants, who are none other than

his wife and daughter. It is also found that, from 20.7.2011 onwards, no amount was paid by the respondent-husband as maintenance to the petitioners. However, the Court below accepted the contention of the respondent-husband that the amounts claimed by the petitioners are exorbitant. Finally, the Court below directed the petitioner herein to pay an interim maintenance at the rate of ₹3,000/- and ₹1,500/- respectively to the 1st and 2nd respondents and also directed to pay ₹5,000/- as litigation expenses.

4. Having regard to the facts and circumstances of the case and considering the present living costs, we are of the view that the rate of interim maintenance fixed by the Court below is only reasonable and not exorbitant and hence no interference is warranted. Accordingly, we do not find any merit in the O.P.(FC).

5. As this Court is not inclined to interfere with Ext.P3 order, the learned counsel for the petitioner submitted that the Court below can be directed to dispose of the matters pending before that Court, as expeditiously as possible.

6. In the light of the facts stated above, it can be seen that the petitioner, herein, originally approached the appropriate Court during the year 2011 seeking a relief for divorce against the 1s respondent herein. The respondents herein approached the Family Court during the year 2013 for maintenance. Under the above circumstances, it is only just and proper to direct the Court below to expedite the proceedings and dispose of the matters pending before it as early as possible.

In the result, this O.P.(FC) is dismissed. However, there will be a direction to the learned Judge of the

Family Court, Ottapalam to take up O.P.No.505/2014 and 431/2013 and expedite the proceedings to dispose the same and the matters shall be disposed of as expeditiously as possible, at any rate, within six months from the date of producing a copy of this judgment before that Court.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

