

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

OP (FC).No. 58 of 2015 (R)

PETITIONER(S):

T.K.SANKARA NARAYANAN, 63 YEARS,
S/O.KESAVA KARANAVAR, GAYATHRIYIL VEETIL
KARoor MURI, PURAKKAD VILLAGE, AMBALAPPUZHA
ALAPPUZHA DISTRICT PIN- 688 561.

BY ADV. SMT.VILASINI NAYAK

RESPONDENT(S):

1. SUJA, AGED 52 YEARS
D/O.SUKUMARAN NAIR, PANDAVATHU VEETIL
PALLANA MURI, THRIKKUNNAPPUZHA VILLAGE
ALLEPPEY-690515.
2. GAYATHRI.S., NOW AGED 18 YEARS
D/O.SUJA, PANDAVATHU VEETIL, PALLANA MURI
THRIKKUNNAPPUZHA VILLAGE, ALLEPPEY- 690 515.
3. REVATHI.S., NOW AGED 13 YEARS
D/O.SUJA, PANDAVATHU VEETIL, PALLANA MURI
THRIKKUNNAPPUZHA VILLAGE, ALLEPPEY-690 515.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP (FC).No. 58 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS :

EXT P1- TRUE COPY OF PETITION OF O.P NO.356/2010 BEFORE THE
HONOURABLE FAMILY COURT, ALLEPPEY AND RENUMBERED AS OP
429/213 ON TRANSFER TO THE HONOURABLE FAMILY COURT,
MAVELIKARA, TOGETHER WITH SUMMONS.

EXT P2- THE TRUE COPY OF I.A. NO.976/2010 (TOGETHER WITH SHOW CAUSE
NOTICE) IN O.P NO.356/10/O.P.NO.249/2013.

EXT P3- TRUE COY OF DISCHARGE SUMMARY ISSUED BY V.S.M HOSPITAL,
MAVELIKARA, DATED 19/09/14.

EXT P4- TRUE COPY OF THE DOCUMENT LIST IN O.P NO.429/2013 BEFORE
HONOURABLE FAMILY COURT AT MAVELIKARA.

EXT P5- TRUE COY OF THE COUNTER AFFIDAVIT IN I.A. NO.976/10 IN O.P
NO.429/2013.

EXT P6- TRUE COPY OF I.A.NO.249/2015 IN I.A.NO.976/2010 IN O.P
NO.429/2013.

EXT P7- TRUE COPY OF I.A NO.365/2015 IN I.A.NO.249/2015 IN O.P
NO.429/2013.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A. TO JUDGE

K.T.SANKARAN & BABU MATHEW P.JOSEPH, JJ.

O.P.(F.C.) No.58 of 2015

Dated this the 2nd day of March, 2015

JUDGMENT

K.T.Sankaran, J.

The respondents filed O.P.No.356 of 2010 on the file of the Family Court, Alappuzha, against the petitioner claiming arrears of maintenance and future maintenance. O.P.No.356 of 2010 was transferred to Family Court, Mavelikkara, where it was numbered as O.P.No.429 of 2013.

2. The reliefs prayed for in the O.P.(F.C.)No.58 of 2015 are the following :

“(i) to issue direction to the Hon'ble Family Court, Mavelikkara, directing to urgently hear and dispose of I.A.No.249 of 2015 lifting attachment on either of the two petition scheduled attached properties.

- (ii) to issue direction to the court below to complete adjudication in O.P.No.429 of 2013, receiving all addl. pleadings, documents etc. and pass orders within a time frame of three months or as may be deemed fit and proper by this Hon'ble Court.
- (iii) to issue such other appropriate direction as this Hon'ble Court may deem necessary in the facts and circumstances of the case.”

3. A Division Bench of this Court directed the Registry to call for a report from the Family Court as regards the prayer made by the petitioner for early hearing of I.A.No.249 of 2015 and for expeditious disposal of O.P.No.429 of 2013. The Judge, Family Court, Mavelikkara, submitted a report dated 8th February, 2015 in which it is stated that an order of attachment was passed in 2010. In 2015, the petitioner filed I.A.No.249 of

2015 to receive counter affidavit in I.A.No.976 of 2010 (the application for attachment before judgment) and to receive the petition to modify an order of attachment. It is also stated that I.A.No.248 of 2015 was filed with the same prayer as made in I.A.No.249 of 2015. On 27.2.2015, the Family Court passed an order in I.A.Nos.248 of 2015 and 249 of 2015 to receive the counter affidavit in the application for attachment before judgment. The Judge, Family Court has stated in the report that no petition is seen filed for modification of the attachment order in I.A.No.976 of 2010. It is also stated that the O.P. is posted to 6.3.2015 for further evidence of the respondent.

4. The learned counsel for the petitioner submitted that there was some confusion with respect to the prayer in the application and in fact the affidavit would disclose that the petitioner was very much aggrieved by the continuance of the

order of attachment. The learned counsel further submitted that a proper application will be filed for lifting the attachment.

5. The Original Petition was filed for arrears of maintenance and future maintenance in the year 2010. Till 2015, the petitioner did not think it fit to move the Family Court for lifting the attachment. The main case is not disposed of so far. In the facts and circumstances, we do not think it is necessary to issue notice to the respondents. We dispose of the O.P.(F.C.) with the following directions :

- (i) The Family Court shall dispose of O.P.No.429 of 2013 as expeditiously as possible.
- (ii) The petitioner is free to file an application for modifying the order of attachment which shall be disposed of on the merits.
- (iii) If the main case itself can be disposed of

expeditiously and if the Family Court thinks that further delay will occur in the matter of hearing the application for lifting the attachment, the Family Court is free to resort to appropriate procedure in the matter of disposal of the Original Petition/the application for lifting the attachment.

(iv)The petitioner shall produce the certified copy of the judgment before the Family Court and shall serve a true copy of the same to the respondents (the petitioners in O.P.No.429 of 2013) and produce proof of the same before the Family Court.

**K.T.SANKARAN
JUDGE**

**BABU MATHEW P.JOSEPH
JUDGE**