

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

OP (FC).No. 97 of 2015 (R)

MC 135/2007 OF FAMILY COURT,THIRUVANANTHAPURAM

PETITIONER(S):

DR.MAMMEN C.JACOB AGED 67 YEARS
S/O.C.M.JACOB, NEW MEDICAL CENTRE
POST BOX NO.25262 SHARJAH, UAE
NOW RESIDING AT TRIVANDRUM.

BY ADVS.SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.GOVIND PADMANAABHAN
SRI.AJIT G.ANJARLEKAR

RESPONDENT(S):

1. ELIZEBATH ANTHONY
D/O.JACOB ANTONY, TC.20/2033, HOUSE NO.3
MEDAYIL HOUSE, THIRUVANANTHAPURAM - 695 003.
2. JACOB C.MAMMEN (MINOR)
TC.20/2033, HOUSE NO.3, MEDAYIL HOUSE
THIRUVANANTHAPURAM - 695 003.
3. GEORGE C.MAMMEN (MINOR)
TC.20/2033, HOUSE NO.3, MEDAYIL HOUSE
THIRUVANANTHAPURAM - 695 003.

(RESPONDENTS 2 AND 3 ARE MINORS REPRESENTED BY MOTHER,
FIRST RESPONDENT)

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP (FC).No. 97 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 -A TRUE COPY OF THE MAINTENANCE PETITION FILED BY THE
RESPONDENTS BEFORE THE FAMILY COURT, THIRUVANANTHAPURAM
IN M.C.NO.137 OF 2007

EXT.P2 - A TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER TO
EXHIBIT P1

EXT.P3 - A TRUE COPY OF THE AMENDMENT APPLICATION CMP NO.342 OF
2013 IN M.C. NO.135 OF 2007 FILED BY THE PETITIONER BEFORE
THE FAMILY COURT, THIRUVANANTHAPURAM.

EXT.P4 - A TRUE COPY OF THE ORDER DATED 12-12-2014 PASSED BY THE
FAMILY COURT THIRUVANANTHAPURAM IN CMP NO.342 OF 2013 IN
M.C.NO.135 OF 2007

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A. TO JUDGE

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

O.P.(F.C.)No.97 of 2015

Dated this the 17th day of March, 2015

JUDGMENT

K.T.Sankaran, J.

The petitioner Dr.Mammen C.Jacob is the husband of Elizebath Anthony (first respondent) and father of respondents 2 and 3. Before marrying Elizebath Anthony, Dr.Mammen C.Jacob had married another woman and she died of cancer. Elizebath Anthony had also married another man and that marriage was dissolved by the judgment of the Circuit Court for the Country of Wayne, USA on 4th August, 1992. It was, thereafter, that Dr. Mammen C.Jacob married Elizebath Anthony.

2. Elizebath Anthony and her children filed M.C.No.135 of 2007 before the Family Court,

Thiruvananthapuram, claiming maintenance. Dr.Mammen C.Jacob contested the case. When trial was going on, he filed an application for amendment on his counter statement to incorporate a plea that the foreign judgment is not legal and binding and the marriage between Elizebath Anthony and her husband shall be deemed to be subsisting.

3. The Family Court dismissed the application for amendment by the order dated 12th December, 2014, which is under challenge in this O.P.(F.C.). The court below considered the contentions put forward by the petitioner and held that at this stage, after recording the evidence, the application cannot be entertained. It was also held by the court below thus :

“Now the respondent/petitioner wants to challenge the legality of a foreign judgment pronounced by a foreign court on 4.8.1992. The admissibility and the binding force of a foreign judgment is a legal aspect that can be considered even without an amendment. This is a case filed in 2007 for maintenance and it was

once allowed on 20.1.2009 and thereafter it was restored to file as ordered on I.A.589/2011. Now the ocular evidence of both parties are recorded and the case is awaiting hearing from 10.10.2013 onwards.”

4. It is submitted that the date shown as 10.10.2013 may be a mistake. We are of the view that the court below was justified in dismissing the application for amendment of the counter statement. The order passed by the court is legal, proper and just. No grounds are made out for interference in this O.P. (F.C.).

For the aforesaid reasons, the O.P.(F.C.) is dismissed.

K.T.SANKARAN
JUDGE

BABU MATHEW P.JOSEPH
JUDGE