

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

OP (FC).No. 157 of 2015 (R)

PETITIONER(S) :

V.N.SASI AGED 44 YEARS
S/O.VASU, VILAYILPUTHENVEEDU
ALUMANOORKONAM, MITHIRMALA P.O
PANGODE

BY ADV. SMT.M.HEMALATHA

RESPONDENT(S) :

REJANI, AGED 32 YEARS
D/O.KAMALAMMA, BLOCK NO:1132
KAKKANIKARAVEEDU,EZHUKUDI
VATTAKARIKKAM P.O.,PACHA, PALODE
THIRUVANANTHAPURAM DIST. 695 582

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN OP(FC)157/2015

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE I.A.NO:1488/2013 IN O.P.NO:167/2011 BEFORE THE FAMILY COURT, NEDUMANGAD

EXT.P2: -DO- 1489/2013 IN OP.NO:167/2011 BEFORE THE FAMILY COURT, NEDUMANGAD

EXT.P3: -DO- OBJECTION IN I.A.NO:1488/2013

EXT.P4: -DO- INI.A.NO>1489/2013

EXT.P5: -DO- I.A.NO:1488/2013 IN O.P.NO:167/2011 BEFORE THE FAMILY COURT, NEDUMANGAD DT.11.12.2014

EXT.P6: -DO- I.A.NO:1488/2013 IN O.P.NO:167/2011 BEFORE THE FAMILY COURT, NEDUMANGAD DT.11.12.2014

JJ

/TRUE COPY/

P.S.TO JUDGE

K. SURENDRA MOHAN & MARY JOSEPH, JJ.

O.P(FC) NO:157 OF 2015

Dated this the 10th April, 2015.

JUDGMENT

Surendra Mohan, J.

The petitioner has filed this petition challenging Exts.P5 and P6 orders by which, applications to condone the delay of 63 days in filing an application for setting aside an ex parte order and another application to set aside an ex parte order have been allowed. According to the counsel for the petitioner, the first respondent had been consistently absent on the various postings on which O.P.167/2011 had been posted. She had sought for condonation of delay of 63 days alleging that she had dislocated her knee and was under treatment. It is contended by the counsel for the petitioner that the petitioner had absolutely no explanation for her absence during the previous posting dates. It is the further contention that the medical certificate produced was unreliable and was procured by paying money. The petitioner had after the ex parte order was

passed allowing divorce, got married to another lady with whom he is continuing to live as husband and wife. For the above reasons, it is contended that absolutely no purpose would be served by condoning the delay and having an adjudication of the original petition on the merits. In view of the above the counsel seeks interference with the impugned order Exts.P5 and P6.

2. We notice that, the Family Court was satisfied with the explanation offered by the respondent for the delay that was occasioned. Her case was that, she was not well on the date on which the ex parte order was passed and that, she was under treatment for the subsequent period also. The Family Court has exercised its discretion and has condoned the delay of 63 days. We notice that there was no contra evidence produced by the petitioner to show that the medical certificate produced was procured by payment of money, as alleged. The petitioner's contention that she was not well was supported by the medical certificate. Therefore we do not find anything wrong in the Family Court having relied upon the said medical certificate and condoned the delay. It is also worth noticing that the delay has been condoned by the Family Court in exercise of its discretion. We do not find any grounds to

interfere with the same.

3. The petitioner has a contention that he has got married to another person after the O.P was allowed in his favour. The same is a matter that could be brought to the notice of the Family Court while considering the original petition on the merits. It is not necessary at this stage to interfere with the impugned orders, on the said ground. The petitioner's explanation for her absence on the date on which the ex parte order was passed having been accepted by the Family Court, we do not think that it was necessary for her to have explained the reason for her absence during the previous postings also.

For the foregoing reasons we do not find any grounds to entertain this petition or to interfere with the impugned orders. The same is therefore dismissed.

Sd/-
K. SURENDRA MOHAN
Judge

Sd/-
MARY JOSEPH
Judge

