

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR.JUSTICE K. RAMAKRISHNAN

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

OP (FC).No. 216 of 2015 (R)

AGAINST THE ORDER IN OP 648/2014 of FAMILY COURT,THRISSUR DATED
19.02.2015

PETITIONER/RESPONDENT:

RADHYA MERI PRIYADARSINI, AGED 30 YEARS,
D/O RAPHY K.J, KANNAMPUZHA HOUSE,
KIZHAKKUMPATTU KARA,
THRISSUR EAST P.O

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA

RESPONDENT/PETITIONER:

JOHN SIMIL K.A,
S/O. AUGUSTINE K.G,
KADANAMPARAMBIL HOUSE,
ERAMALLOOR P.O,
ALAPPUZHA DISTRICT 688 537

BY ADVS. SUMATHI DANDAPANI
SRI.MILLU DANDAPANI

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC) .No. 216 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PETITION FILED AS O.P.NO. 648/2014 IN THE FAMILY COURT, THRISSUR DATED 03/05/2014.

EXT.P2 TRUE COPY OF OBJECTION FILED AS O.P.NO. 648/2014 IN THE FAMILY COURT, THRISSUR DATED 07/05/2014.

EXT.P3 TRUE COPY OF I.A NO. 734/2015 FILED IN O.P.NO. 648/2014 IN THE FAMILY COURT, THRISSUR DATED 16/02/2015.

EXT.P4 TRUE COPY OF THE ORDER OF THE FAMILY COURT, THRISSUR IN G.O.P.NO.648/2014 DATED 19/02/2015.

EXT.P5 TRUE COPY OF THE PETITION FILED AS I.A NO. 1293/2015 IN O.P.NO. 648/2014 IN THE FAMILY COURT, THRISSUR DATED 27/03/2015.

EXT.P6 TRUE COPY OF OBJECTION TO EXHIBIT P5 FILED BY THE RESPONDENT DATED 31/03/2015.

EXT.P7 TRUE COPY OF THE PROOF AFFIDAVIT FILED BY THE PETITIONER IN I.A NO. 1293/2015 IN O.P.NO. 648/2014 IN THE FAMILY COURT, THRISSUR DATED 23/04/2015.

EXT.P8 TRUE COPY OF THE PETITION FILED AS I.A NO. 2063/2015 IN O.P.NO. 648/2014 OF FAMILY COURT, THRISSUR DATED 20/05/2015

RESPONDENT'S EXHIBITS:NIL

/TRUE COPY/

P.S. TO JUDGE

C.K. ABDUL REHIM & K. RAMAKRISHNAN, JJ.

.....
O.P.(FC)No.216 of 2015
.....

Dated this the 28th day of May, 2015.

JUDGMENT

Ramakrishnan, J:

This original petition is filed by the petitioner seeking intervention of this Court to issue a direction to the Family Court, Thrissur for speedy disposal of Ext.P5 petition filed by her under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner is the mother of minor Amaliya Mary John, aged 7 years, born in the wedlock between the petitioner and the respondent. There was an earlier proceeding as O.P.No.648/2014 before the Family Court, Thrissur regarding the custody of the child, which was ended in compromise evidenced by Ext.P3 compromise and based on that the original petition was disposed of recording the compromise evidenced by Ext.P4 order. The allegation in the original petition was that the petitioner was under misconception that giving temporary custody of the child to the father will be beneficial for having a reunion possible, if the arrangement is accepted. However, now it is understood

that it is not for the benefit of the child and she has been lost the custody of the child and she has been given only visitorial right and temporary custody during holidays alone. So she filed Ext.P5 petition for modifying the order passed as per Ext.P4. Since Family Court is not disposing the matter, she was compelled to file this original petition before this Court seeking the following reliefs:

i direct the Family Court, Thrissur to advance the hearing of Ext.P5 application and to further direct expeditious disposal of the said application by day to day postings;

ii. direct the respondent to return the minor Amaliya Mary John to the custody of the petitioner forthwith;

iii. pass such other orders, interlocutory or otherwise, which are deemed fit and proper to meet the ends of justice; and

3. Heard counsel for the petitioner, Sri. Philip T. Varghese and Smt.Sumathi Dandapani, senior counsel for the respondent.

4. Considering the fact that this matter to be considered by the Family Court and also considering the fact that the petition was filed immediately after the compromise order recorded and the allegation in the petition has to be considered by the court below by taking evidence, this Court feels that fixing a time limit at this stage will be only cause unnecessary burden on the Family Court, which is already crowded with lot of pending cases and also older cases. However, allowing such a petition directing the Family Court to dispose of new matters will only cause prejudice to the persons, who are waiting in the court seeking justice in queue. So, under the circumstances we feel that this original petition can be disposed of directing the Family Court to expedite disposal of Ext.P5 petition as expeditiously as possible and that will be sufficient and that will meet the ends of justice. Further, if any modification is required in the visitoral right or the interim custody provided as per Exts.P3 and P4, the petitioner is at liberty to move that court for that purpose and that court can consider and pass appropriate orders in that petition as well.

With the above directions and observations, this petition is disposed of.

Office is directed to communicate a copy of this judgment to the concerned court immediately.

Sd/-
C.K. ABDUL REHIM, JUDGE.

Sd/-
K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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