

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN**

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYASHTA, 1937

OP (FC).No. 231 of 2015 (R)

I.A.NO.614/2015 IN O.P.NO.435/2015 OF FAMILY COURT, KOZHIKODE

PETITIONER(S):

**SUNIL KUMAR S., AGED 42 YEARS,
S/O.LATE SURENDRAN, ASWATHY, KOOVALATHOOR MEETHAL,
CHELAVOOR P.O., KOZHIKODE.**

BY ADV. SRI.JAMES ABRAHAM (VILAYAKATTU)

RESPONDENT(S) :

- 1. DIVYAK., AGED 35 YEARS,
W/O.SUNIL KUMAR S., NOW RESIDING AT POKKARATH HOUSE,
KIZHUNNA P.O., THOTTADA, KANNUR- 7.**
- 2. VIJAYAN,
POKKARATH HOUSE, KIZHUNNA P.O., THOTTADA,
KANNUR-7.**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

OP (FC).No. 231 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE PRESCRIPTION DATED 11.04.2014.**
- P2: TRUE COPY OF THE O.P.NO.435/2015 ON THE FILE OF THE FAMILY COURT, KOZHIKODE.**
- P3: TRUE COPY OF THE I.A.NO.614/2015 IN O.P.NO.435/2015 ON THE FILE OF THE FAMILY COURT, KOZHIKODE.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

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

OP(FC) .No. 231 of 2015

Dated this the 3rd day of June, 2015

JUDGMENT

Abdul Rehim,J.

This writ petition is filed under Article 227 of the Constitution of India seeking direction to the Family Court, Kozhikode to pass order in IA.No.614/2015 filed in OP.No.435/2015. The case, OP.No.435/2015 was filed by the petitioner herein against the 1st respondent seeking for restitution of conjugal rights. Along with the said OP the petitioner had filed IA.No.614/2015 seeking an interim order for directing the 1st respondent to come back with children to the petitioner urgently, for treatment and for resuming studies of the children in the same school. It is mentioned that OP.No.435/2015 as well as IA.No.614/2015 were filed before the Family Court on 14.5.2015. The Family Court, Kozhikode had issued notice in IA.No.614/2015 and posted the case to 13.7.2015, for appearance of the respondents.

2. Contention of the petitioner is that unless urgent orders are not obtained in the said interim application, studies of the children of the petitioner and treatment of the 1st respondent will be affected seriously. It is contended that the Family Court ought to have considered the urgency and ought to have passed appropriate interim order in the said application.

3. While considering the relief sought for in this writ petition, we are of the opinion that there exists no circumstance warranting invocation of the supervisory jurisdiction vested on this court under Article 227. Even accepting the entire averments contained in the writ petition as true, we do not find any erroneous exercise of jurisdiction vested on the Family Court. If the petitioner was of the opinion that urgent orders were required in IA.No.614/2015 filed along with OP.No.435/2015, he should have moved the said application before the Family Court or on the other hand the petitioner should have approached the Family Court seeking advancement of the posting date. Without adopting any such course as mentioned above, he had rushed to this court in a writ petition filed under Article 227. As already observed, we do not find any merit in this case and we are of the

opinion that the relief sought for is totally misconceived.

4. Under the above mentioned circumstance the writ petition is hereby dismissed. However, it is made clear that the petitioner will be at liberty to take appropriate steps before the Family Court to advance the hearing of the IA No.614/2015 . Needless to observe that if any application in this regard is filed before the Family Court, Kozhikode, that court will consider the same and shall take appropriate decision thereon.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

