

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 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

OP (FC).No. 236 of 2015 (R)

**AGAINST THE ORDER DATED 28/02/2015 IN I.A. NO.4004/2014 IN
O.P. NO.2225/2010 OF FAMILY COURT, THRISSUR.**
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PETITIONER(S):

**ABHITHA, D/O.KUTTAPPAN, AGED 30 YEARS,
KURUMALI KARUVAN VEEDU, P.O. KURUMAL,
VELOOR VILLAGE, THALAPPILY TALUK.**

**BY ADVS.SRI.C.A.CHACKO,
SMT.C.M.CHARISMA,
SMT.MEGHA K.XAVIER.**

RESPONDENT(S):

**RAVEENDRAN, S/O.VELUKUTTY,
AGED 50 YEARS, NEERCHALPARAMBIL HOUSE,
POTTOR DESOM, VATTAMKULAM VILLAGE,
PONNANI TALUK-679 578.**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

OP (FC).No. 236 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ORDER DATED 24/09/2014 OF FAMILY COURT,
 THRISSUR.
- EXT.P2 COPY OF THE I.A. NO.4004/2014 FILED BY RESPONDENT.
- EXT.P3 COPY OF THE COUNTER FILED BY PETITIONER IN I.A. NO.4004/2014.
- EXT.P4 COPY OF THE ORDER DATED 28/02/2015 IN I.A. NO.4004/2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

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

OP(FC) .No. 236 of 2015

Dated this the 4th day of June, 2015

JUDGMENT

Abdul Rehim,J.

Petitioner herein is the petitioner in OP.No.2225/2010 before the Family Court, Thrissur which is filed against the respondent herein, seeking dissolution of dissolve the marriage between them, on the ground of alleged cruelty.

2. The Family Court passed an exparte decree allowing dissolution of the marriage between the parties, on 24.9.2014, as per Ext.P1. The respondent herein filed IA.No.4004/2014 (Ext.P2) seeking to set aside the exparte decree. The petitioner filed objection to the above said application as evidenced from Ext.P3. Considering the application and the objections filed by the petitioner, the Family Court passed Ext.P4 order setting aside Ext.P1 exparte decree. This writ petition under Article 227 is filed challenging Ext.P4 order of the Family Court, Thrissur.

3. On a perusal of Ext.P2 we notice that the contentions raised by the respondent herein on the factual aspects, which led

to non contest of the matter when it was posted for evidence on 23.9.2014, was well explained. It is evident that the Family Court declared the respondent as ex-parte on 23.9.2014 because there was no representation when the case was taken up. The respondent herein submitted that he was laid up and was unable to come to the court on that particular day. Necessary arrangement was made to represent the case through the advocate. But it is mentioned that the Advocate could not appear at the time when the case was called up, because he was engaged in another court. The Family Court found that the ex parte decree was passed on the very next day i.e on 24.9.2014. The interim application to set aside the exparte decree was filed on the very same day itself. Therefore it was observed that there exists valid reasons to set aside the exparte decree. Further it was found that another connected matter, OP.No.2226/2010, which was also set exparte on the very same day, was already restored, after setting aside the exparte order. Hence the exparte decree was set aside by allowing the interim application.

4. Contention of the petitioner is that she had received notice in Ext.P2 IA only after a period of about 2 months and in the meanwhile she had contacted a second marriage on

15.10.2014. Therefore setting aside of the ex-parte decree will cause severe prejudice, is the contention.

5. We are of the considered opinion that whether the petitioner had engaged in a second marriage immediately after the exparte decree, is not an issue which need to be considered while allowing to set aside the exparte decree. On a perusal of Ext.P4 order, which is impugned in this writ petition, we are convinced that the Family Court had exercised the jurisdiction vested on it in a legal and proper manner. It is only after being convinced that there exists valid reasons to set aside the exparte decree, the court below had allowed the interim application.

6. Under such circumstance, we do not find any valid ground existing for interference with the impugned order, that too by invoking the supervisory jurisdiction vested under Article 227 of the Constitution of India.

In the result the writ petition fails and the same is hereby dismissed.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

