

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

OP (FC).No. 240 of 2015 (R)

(AGAINST ORDER DATED 30-05-2015 IN IA No.1901/2015 IN OP 2230/2014)

PETITIONER:

**JINI JOSE,
AGED 37 YEARS, S/O. K.V. JOSEPH,
RESIDING AT KALLAPPARA HOUSE
CHOROTTUR.P.O., OTTAPPALAM AT PALAKKAD DISTRICT.**

BY ADV. SMT.T.K.USHA RANI

RESPONDENT:

**SELMA JUDY P.J,
AGED 39 YEARS, D/O. CHAVARA JACOB,
PALACKAL HOUSE, OCHANATHURUTHU VYPIN,
NOW RESIDING AT GROUND FLOOR,
FREEZIA APARTMENT, CHEMBUMUKKU, KAKKANAD.**

**BY ADVS. SRI.T.M.RAMAN KARTHA
SMT.SYAMA MOHAN**

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

OP (FC).No. 240 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1 - TRUE COPY OF THE ORDER DATED 30/05/2015 OF THE
FAMILY COURT, ERNAKULAM TO THE PETITIONER.**

RESPONDENT'S EXHIBITS

NIL

True copy

P.A. To Judge

AMG

**C.K. ABDUL REHIM, J.
&
K. RAMAKRISHNAN, J.**

O.P (FC) No. 240 OF 2015

DATED THIS THE 27th DAY OF JULY, 2015

J U D G M E N T

K. Ramakrishnan, J:

Respondent in IA 1901/2015 in OP 2230/2014 on the file of Family Court, Ernakulam has filed this original petition challenging the order in IA 1901/2015 passed by the court below under Article 227 of the Constitution of India.

2. The husband/petitioner herein filed OP 2230/2014 for divorce. In that original petition the respondent filed IA 1901/2015 for interim direction to pay an amount of Rs.30,000/- towards the educational expenses of the children studying in 4th standard and UKG respectively in Bhavan's School, Ernakulam. It is alleged in the petition that the petitioner herein is having good income and he is a Software Engineer, getting a salary of Rs.40,000/- per month. The petitioner herein appeared and filed counter

denying the allegations and also stating that the petitioner in the application namely mother is also employed and getting income and she can meet the educational expenses of the children. He had also stated that he is only getting Rs.26,000/- per month as salary. He has to look after his parents as well. So he prayed for dismissal of the application. After considering the contention of both parties the family court Judge by Ext.P1 order directed the petitioner herein to pay Rs.30,000/- towards educational expenses of the minor children.

3. Heard counsel for the petitioner and respondents. Though this court directed the petitioner to deposit Rs.15,000/- for staying the petition he had only deposited Rs.5,000/- and wanted time for payment of the balance amount. Considering the scope of dispute we felt that the petition can be admitted and disposed of today itself after hearing both sides. So the petition is admitted and disposed of today itself.

4. The counsel for the petitioner submitted that the amount of Rs.30,000/- fixed by the court below towards educational expenses is excessive and he is not in a position to raise so much amount. Further the respondent is also employed and getting income. She is also equally responsible to meet the educational expenses of the children as the father's responsibility.

5. On the other hand the counsel for the respondent submitted that with a meager income she was getting as an Accountant trainee in a private concern it is not possible for her to meet the expenses. On the other hand petitioner is working in an I.T company getting good income.

6. It is an admitted fact that the petitioner and respondent are man and wife and 2 children were born to them in that wedlock by name, Mariyam Mileeta now studying 4th standard in Bhavan's Varuna Vidhyalaya, Kakkanad and Milith Antony now studying in U.K.G in Bhavans Adarsh School, Kakkanad. The fact that the petitioner is qualified person and employed in I.T company

is not in dispute. He is only disputing salary mentioned by the respondent. It is also in away admitted by the respondent-mother that she is employed as an Accountant trainee and getting some income by doing that job. When both parents are employed they have got equal responsibility to look after the welfare of the children and also meet the educational expenses. Even if wife is employed the responsibility of the father to meet educational expenses is not exonerated. He has to play a leading role in providing maintenance to the children and also to meet the educational expenses of the children. So considering the circumstances we feel that fixing an amount of Rs.20,000/- (Rs.12,500/- for the child studying in 4th standard and Rs.7,500/- for the child studying in UKG) will be sufficient to meet the ends of justice. So the order passed by the court below directing the respondent to pay Rs.30,000/- is set aside and the same is re-fixed as Rs.20,000/- as mentioned above to be payable to the children in the ratio as stated above. The petitioner is

directed to pay the amount within a period of 2 weeks from today. If the amount is not paid the respondent is at liberty to execute the order and realize the amount from the petitioner.

With the above modification of the order passed by the court below the original petition is disposed of.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge