

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 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

OP (FC).No. 304 of 2015 (R)

AGAINST THE ORDERIN OP.NO.670/2013 OF FAMILY COUART, ERNAKULAM

PETITIONER:

ALEX VARGHESE, AGED 35 YEARS,
S/O.VARGHESE JACOB, ALEX SONIA, ARACKAL HOUSE
PERAMANGALAM, THRISSUR, PIN-680545.

BY ADVS.SRI.M.RAMASWAMY PILLAI
SMT.PREETHY R. NAIR

RESPONDENT:

ROSE NILIMA JOSEPH, AGED 25 YEARS,
D/O.JOSEPH VAZHAPPALLY, VAZHAPPALLY HOUSE,
NO.5 ROSE GARDENS, AMBEDKAR ROAD, VALLIYAPPANPADI
U.C.COLLEGE.P.O, ALUVA, PRESENTLY RESIDING AT NO.205
SATYAM K 3/3 APARTMENTS, OSTWAL EMPIRE, BOISAR
THANE DISTRICT, MAHARASHTRA-43321.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 08-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC) .No. 304 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ORIGINAL PETITION NO.37 OF 2013 OF THE FAMILY COURT,ERNAKULAM.

EXT.P2 TRUE COPY OF THE ORIGINAL PETITION NO.251 OF 2013 OF THE FAMILY COURT,ERNAKULAM.

EXT.P3 TRUE COPY OF THE ORIGINAL PETITION O.P.607 OF 2013 OF THE FAMILY COURT,ERNAKULAM.

EXT.P4 TRUE COPY OF ORDER IN I.A.1205 OF 2013 DATED 22ND DAY OF MARCH 2014.

EXT.P5 TRUE COPY OF THE ORIGINAL PETITION NO.2379 OF 2013 FILED UNDER SECTION 32 OF DIVORCE ACT BEFORE THE FAMILY COURT,ERNAKULAM.

EXT.P6 TRUE COPY OF ORIGINAL PETITION O.P.7 OF 2013 OF THE FAMILY COURT,ERNAKULAM.

EXT.P7 TRUE COPY OF THE NOTIE ISSUED BY THE HONOURABLE SUPREME COURT DATED 30-3-2015 TO THE PETITIONER.

RESPONDENT'S EXHIBITS:NIL

/TRUE COPY/

P.S TO JUDGE

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

.....
O.P.(FC)No.304 of 2015
.....

Dated this the 8th day of July, 2015.

JUDGMENT

Ramakrishnan, J:

This is an application filed by the petitioner seeking intervention of this Court under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner and the respondent are man and wife and a female child by name Anlia was born to them in their wedlock on 17.5.2011. Thereafter the relationship between them strained, which resulted in filing of O.P.No.37/2013 for divorce, O.P.No.251/2013 for return of gold ornaments and other articles, O.P.No.607/2013 for custody of the child, OP.No.2379/2013 for restitution of conjugal rights and O.P.No.7/2013 for maintenance. In O.P.No.607/2013, Ext.P4 order was passed by the Family Court granting interim custody of the child. The respondent filed a petition before Hon'ble Supreme Court for transfer of all these cases to a court at Mumbai as she has shifted her residence there. She is not producing the child as directed in Ext.P4. So the petitioner has

no other remedy except to approach this Court seeking the following reliefs:

i. issue direction or order to the respondent to comply the order Ext.P4 to produce the child as ordered, if not direction be given to take action against the respondent for not complying the order dated 2.3.2014.

ii. issue such other orders or directions which are deems fit at the time of hearing.

2. Since the petitioner has not moved any petition before the Family Court for implementing Ext.P4 order, it is not proper for this Court to entertain any application to issue any direction to the respondent to produce the child as claimed in the petition invoking supervisory jurisdiction under Article 227 of the Constitution of India. The remedy of the petitioner is to file an application before the Family Court itself to implement the order. If such an application is filed, then the Family Court is directed to consider and dispose of that application after hearing both sides in accordance with law.

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

Communicate a copy of this judgment to the concerned Court at the earliest.

Sd/-

C.K.ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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