

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

OP (FC).No. 315 of 2015 (R)

IN OP 527/2014 of FAMILY COURT, ALAPPUZHA

PETITIONER(S):

**ROSE MERIN ABRAHAM @ BLESSY, AGED 26 YEARS
W/O.TONY, NOW RESIDING AT MEKKARIYIL HOUSE
VARANAM P.O, CHERTHALA.**

**BY ADVS.SMT.C.G.BINDU
SMT.C.G.AJITHA
SMT.SEEMA.E.GEORGE**

RESPONDENT(S):

**TOM JOSEPH, AGED 74 YEARS
S/O.JOSEPH, PUNNEPADAM HOUSE,
ZILL COURT WARD
THATHAMPALLY, ALAPPUZHA.**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

OP (FC).No. 315 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 :** COPY OF THE OP 527/14 FILED BY PETITIONER BEFORE THE FAMILY COURT, ALAPPUZHA DATED 14.8.14.
- EXHIBIT P2 :** COPY OF THE INTERLOCUTORY APPLICATION IA 523/15 IN OP 527/14 FILED BY RESPONDENT DATED 29.4.15.
- EXHIBIT P3 :** COPY OF THE OBJECTION TO EXHIBIT P2 DATED 2.6.2015
- EXHIBIT P4 :** COPY OF THE ORDER DATED 22.6.15 IN IA 523/15 IN OP 527/14 OF THE FAMILY COURT, ALAPPUZHA.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

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

O.P.(F.C).No.315 of 2015

Dated this the 10th day of July, 2015

JUDGMENT

K.Ramakrishnan, J

This is an application filed by the petitioner challenging the order in I.A.No.523/2015 in O.P.No.527/2014 of the Family Court, Alappuzha, invoking supervisory jurisdiction under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner filed Ext.P1 O.P.No.527/2014 before the Family Court, Alappuzha against her husband for a decree for restitution of conjugal rights. The marriage was solemnized on 09.07.2011, when she was only 22 years and her husband was working in Dubai for the last 7 years, even at the time of marriage. The understanding was that she will be taken to Dubai as she is completed the course in Nursing. But that was not happened and due to some difference of opinion, they fell apart and she is residing separately and

filed the original petition for restitution of conjugal rights. The husband entered appearance and he attended the counseling and there was a mediation, in which also he participated but, after the mediation and counselling failed, he went back and thereafter, I.A.No.523/2015 was filed by the father of the respondent, permitting him to appear and conduct the case on the basis of the Power of Attorney executed by the respondent and that petition was allowed by the court below, which is being challenged by the petitioner by filing this petition.

3. Considering the nature of dispute, this Court felt that the petition can be disposed of at the admission stage itself after hearing the counsel for the petitioner dispensing with notice to the respondent.

4. The grievance of the petitioner was that, in a matrimonial case, the respondent is not entitled to represent through the Power of Attorney and the Power of Attorney cannot be file statement and adduce evidence also. It may be mentioned here that there is no bar for a

Power of Attorney to conduct a case, even before a Family Court, on behalf of the party respondent, on the strength of the Power of Attorney executed by him. But whether the evidence adduced by the Power of Attorney is sufficient or not is a matter to be considered by the Family Court, while appreciating the evidence. So the order passed by the court below permitting the respondent to appear through Power of Attorney, namely her father did not suffer any illegality warranting interference at the hands of this Court invoking any supervisory jurisdiction under Article 227 of the Constitution of India. The learned counsel for the petitioner submitted that the objection filed by the petitioner herein has not been considered and it is mentioned in the order that no objection has filed. Even if the objection is considered, there is no illegality committed by the court below in passing the impugned order. But however, if the parties feel that if the matter is referred for mediation again, there is a possibility of settlement, then the parties are at liberty to move the

Family Court for that purpose and if such a representation is made, the Family Court is at liberty to refer the matter again for mediation to explore the possibility of settlement between them.

With the above observations and directions the petition is dismissed.

Sd/-
C.K.ABDUL REHIM, JUDGE

Sd/-
K.RAMAKRISHNAN, JUDGE

VS