

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 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

OP (FC).No. 328 of 2015 (R)

PETITIONER(S)/PETITIONERS/RESPONDENTS:-:

- 1. HAREESH
KALLUMOOTTIL VEEDU, KOTHAPURAM MURI, PADINJARE KALLADA
KUNNATHOOR, KOLLAM DISTRICT.**
- 2. VISWANATHAN
KALLUMOOTTIL VEEDU, KOTHAPURAM MURI, PADINJARE KALLADA
KUNNATHOOR, KOLLAM DISTRICT.**
- 3. SANTHA
KALLUMOOTTIL VEEDU, KOTHAPURAM MURI, PADINJARE KALLADA
KUNNATHOOR, KOLLAM DISTRICT.**
- 4. ANUPAMA
SUNDARA VILASAM, KANDROMKANI, MANDROTHURUTH
KUNNATHOOR, KOLLAM DISTRICT.**
- 5. RISHI
SUNDARA VILASAM, KANDROMKANI, MANDROTHURUTH
KUNNATHOOR, KOLLAM DISTRICT.**

**BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN**

RESPONDENT(S)/RESPONDENTS/PETITIONERS:-:

- 1. SRUTHI
SRUTHI BHAVANAM, CHAVARA P.O., KARUNAGAPPALLY
KOLLAM DISTRICT, PIN - 691 583.**
- 2. HARINANDAN (MINOR)
REPRESENTED BY MOTHER AND GUARDIAN SRUTHI
SRUTHI BHAVANAM, CHAVARA P.O., KARUNAGAPPALLY
KOLLAM DISTRICT, PIN - 691 583.**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (FC).No. 328 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 . TRUE COPY OF THE ORDER DATED 17.12.2012 IN
O.P.NO.88/2009 OF THE FAMILY COURT, KOLLAM.**
- EXHIBIT P2 . TRUE COPY OF THE I.A.NO.340/2013 IN O.P.NO.88/2009
OF THE FAMILY COURT, CHAVARA DATED 19.07.2013.**
- EXHIBIT P3 . TRUE COPY OF THE ORDER DATED 14.05.2014 IN
I.A.NO.339/2013 IN O.P.NO.88/2009 OF THE FAMILY COURT,
CHAVARA.**
- EXHIBIT P4 . TRUE COPY OF THE ORDER DATED 14.05.2014 IN
I.A.NO.340/2013 IN O.P.NO.88/2009 OF THE FAMILY COURT,
CHAVARA.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

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

O.P.(F.C).No.328 of 2015

Dated this the 16th day of July, 2015

JUDGMENT

C.K.Abdul Rehim, J.

The petitioners herein are the respondents in O.P.No.88/2009 on the files of the Family Court, Kollam. The respondents herein filed the Original Petition before the Family Court seeking realisation of value of gold ornaments and household articles and also claiming maintenance.

2. O.P.No.88/2009 was disposed of through Ext.P1 order dated 17.12.2012, after declaring the petitioners herein ex-parte. The petitioners herein submitted I.A.Nos.339/2013 and 340/2013 seeking to set aside the ex-parte order, along with petition for condonation of delay in filing the said application. When the above interlocutory applications came up before the Family Court, it was represented that the matter is settled between the spouses and a joint petition is being filed.

However, the court observed that no steps were taken in the above interim applications, which were dismissed for default as per Exts.P3 and P4 orders. The petitioner is approaching this Court aggrieved by Exts.P3 and P4 orders, on the allegation that the respondents herein have withdrawn from the terms of the settlement and that the compromise has not been worked out. It is noticed that the petitioner is seeking to set aside Exts.P3 and P4 orders and also seeking to set aside Ext.P1 order passed in the original petition itself. Incidentally, the petitioner is also seeking direction for stopping further proceedings in the execution petition filed on the basis of Ext.P1 order passed by the Family Court.

3. We notice that in Exts.P3 and P4 orders the Family Court had dismissed the interlocutory applications for default, on the basis that no steps were taken. It is true that, representation made with respect to the settlement is also recorded by the Family court. However, if the petitioners have a case that the respondents are abiding by the conditions of settlement, it is left open to

them to seek appropriate remedy before the Family court itself, either by restoring the applications which were dismissed through Exts.P3 and P4 or by seeking a review of Exts.P3 and P4 orders. At any rate, interference of this Court by invoking the supervisory jurisdiction vested under Article 227 of the Constitution of India is not at all warranted.

Under the above mentioned circumstances, this writ petition is dismissed with liberty reserved to the petitioners to seek appropriate remedy before the Family court, as mentioned above.

Sd/-

C.K.ABDUL REHIM, JUDGE

Sd/-

K.RAMAKRISHNAN, JUDGE

VS