

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 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

OP (FC).No. 356 of 2015 (R)

I.A.424/2015 IN O.P(G.W)NO.196/2015 PENDING ON THE FILE OF FAMILY COURT, MALAPPURAM.

PETITIONER:

SHABEEBA, AGED 28 YEARS
D/O.ABU, AAMAKUZHIYIL HOUSE, KUNNAPPALLY POST
KALATHILAKKARA, MALAPPURAM DISTRICT.

BY ADV.SRI.T.PRASAD

RESPONDENT:

ISMAIL
S/O.KOYA, AGED 35 YEARS, PALLIPURATH HOUSE
PUPPALAM POST, ANGADIPURAM VILLAGE
PERINTHALMANNA TALUK, MALAPPURAM DISTRICT, PIN 676016.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
31-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 356 of 2015 (R)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. THE TRUE COPY OF THE PETITION IN O.P.(G & W) NO.196/2015 OF
THE FAMILY COURT, MALAPPURAM FILED BY THE PETITIONER.

EXT.P2. THE TRUE COPY OF THE PETITION IN I.A.NO.424/2015 IN O.P.
(G & W) NO.196/2015 OF THE FAMILY COURT, MALAPPURAM FILED BY
THE PETITIONER.

EXT.P3. THE TRUE COPY OF THE COUNTER IN I.A.NO.424/2015 IN O.P.
(G & W) NO.196/2015 OF THE FAMILY COURT, MALAPPURAM FILED BY
THE RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

// TRUE COPY//

P.A.TO JUDGE

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

O.P.(FC) No. 356 of 2015

Dated this the 31st day of July, 2015

JUDGMENT

C.K.Abdul Rehim, J.

In this writ petition filed invoking Article 227 of the Constitution of India, the petitioner is seeking a direction to the Family Court, Malappuram to dispose of I.A. No. 424/2015 in O.P.(G.W.)No.196/2015, within a stipulated time.

2. The petitioner herein is the petitioner in O.P. (G.W.) No.196/2015 which is filed seeking for permanent custody of three minor children, born out of the wedlock of the petitioner with the respondent herein. Ext.P1 is the copy of the original petition filed before the Family Court. Along with Ext.P1, the petitioner had filed IA No.424/2015 seeking interim custody of the children, pending disposal of the original petition. It is mentioned that the respondent herein had entered appearance

before the Family Court and filed Ext.P3 objection in IA No.424/2015, as early as on 05.05.2015. It is averred in the writ petition that the Family Court had posted the matter thereafter on several occasions. But the respondent had protracted hearing of the interim application by seeking adjournments on one or other reason. Allegation is that, even though urgency of the matter was pointed out to the Family Court, no steps has been taken to dispose of the application for the interim custody. It is aggrieved by the alleged inordinate delay caused in disposal of IA No.424/2015, this writ petition is filed.

3. We are not satisfied with the averments herein in order to arrive at any conclusion that there occurred any latches on the part of the Family Court in not disposing the application for interim custody. The petitioner has not specifically mentioned the dates on which the matter was adjourned after 05.05.2015. He has also not produced any proof to show that the respondent had sought adjournment with respect to hearing of the interim application, without

any valid reasons. However, we are of the opinion that, it is left open to the petitioner to move before the Family Court to have an advancement of hearing of the interim application. We do not think that, if any such attempt is made by showing urgency of the matter before the Family Court, the Family Court would not consider such motion and would not take necessary steps to dispose of the IA. No specific direction is warranted in this regard, by invoking supervisory jurisdiction vested on this Court under Article 227.

Under the above mentioned circumstances, this writ petition is disposed of by reserving the liberty to the petitioner to make appropriate motion before the Family Court for an early hearing of the application for interim custody.

Sd/-
C. K. ABDUL REHIM, JUDGE

Sd/-
K. RAMAKRISHNAN, JUDGE

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