

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 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

OP (FC).No. 369 of 2015 (R)

IN IA NO.24 OF 2015 IN OP 11/2015 of FAMILY COURT, THALASSERY

PETITIONER(S)/RESPONDENT:-

**ROSHNA K.V., AGED 31 YEARS
D/O.RASHEED, RESIDING AT SHIYARA, EMS ROAD
P.O.MUZHAPPILANGAD, MUZHAPPILANGAD AMSOM DESOM
KANNUR TALUK.**

**BY ADVS.SRI.T.K.VIPINDAS
SMT.PREM BINDU T.K.
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT(S)/PETITIONER:-

**SHOUKATH NARON, AGED 39 YEARS
S/O.SHAMSUDHEEN, RUKSANA VILLA, P.O.DHARMADAM
DHARMADAM AMSOM DESOM, KANNUR DISTRICT.**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (FC).No. 369 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 :** THE TRUE COPY OF THE ORIGINAL PETITION 11/2015 FILED BY THE RESPONDENT BEFORE THE FAMILY COURT, THALASSERY.
- EXHIBIT P2 :** TRUE COPY OF THE COUNTER FILED BY THE PETITIONER IN ORIGINAL PETITION (G&W) NO.11 OF 2015.
- EXHIBIT P3 :** TRUE COPY OF THE I.A.NO.24/2015 IN O.P.11/2015.
- EXHIBIT P4 :** TRUE COPY OF THE COUNTER FILED BY THE PETITIONER IN I.A.24/2015.
- EXHIBIT P5 :** TRUE COPY OF THE ORDER IN I.A.24/2015 IN O.P.11/2015 DATED 25.06.2015.
- EXHIBIT P6 :** TRUE COPY OF THE CERTIFICATE ISSUED BY THE DR.UMER FAROOQUE SLP DATED 08.07.2015.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

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

O.P.(F.C).No.369 of 2015

Dated this the 6th day of August, 2015

JUDGMENT

K.Ramakrishnan, J.

This is a petition filed by the respondent challenging the order in I.A.No.24/2015 in O.P.No.11/2014 on the file of the Family court, Thallassery, under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner and the respondent are wife and husband and their marriage was solemnized on 07.07.2007 and a child was born to them in the wedlock on 24.02.2010. Due to some difference of opinion they started residing separately and then the respondent filed O.P.No.11/2014 before the Family court for permanent custody of the child and also filed I.A.No.24/2015, seeking interim custody. The Family court passed Ext.P5 order on the basis of settlement arrived between the parties and this order is being challenged by the petitioner on the ground that subsequent to the order passed, there were some change of circumstances, which requires modification of the order.

3. On going through the allegations and the documents produced and also submission made by the learned counsel for the petitioner, it is seen that Ext.P5 order is a consent order passed on the basis of the settlement arrived between the parties and there is no fraud or misrepresentation alleged, so as to invoke the jurisdiction under Article 227 of the Constitution of India to quash the order. If there is any change of circumstance warranting modification of that order, the remedy of the petitioner is to move the Family court for that purpose and not to file a petition under Article 227 of the Constitution of India.

4. So the petition lacks merits and the same is liable to be dismissed. If the petitioner moves for modification of the order, then it is for that Family court to consider and pass appropriate orders in the application in accordance with law.

With the above observations and directions the petition is dismissed with above liberty.

Sd/-

C.K.ABDUL REHIM, JUDGE

Sd/-

K.RAMAKRISHNAN, JUDGE

VS

/TRUE COPY/

PA TO JUDGE