

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 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

OP (FC).No. 372 of 2015 (R)

ARISING FROM OP 680/2013 of FAMILY COURT, KOTTARAKKARA

PETITIONER/PETITIONER:

**RAJU O.V.,
AGED 47 YEARS, S/O RAHELAMMA,
VARUVILA KIZHAKKETHIL PUTHEN VEEDU
KADAPPA, MYNAGAPPALLY, KOLLAM DISTRICT.**

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT/RESPONDENT:

**DUDU JOY
AGED 37 YEARS, D/O. JOY, DUDU BHAVANAM,
ELAMPAL, PUNALUR, PATHANAPURAM,
KOLLAM DISTRICT-691001.**

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

OP (FC).No. 372 of 2015 (R)

APPENDIX

PETITIONER'S' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PETITION IN O.P.NO.680/32013 ON THE FILE OF THE FAMILY COURT, KOTTARAKKARA.

EXHIBIT P2: TRUE COPY OF THE ORDER IN MC NO.143/2013 ON THE FILE OF THE FAMILY COURT, KOTTARAKKARA.

EXHIBIT P3: TRUE COPY OF THE PETITION FILED BEFORE THE FAMILY COURT KOTTARAKKARA IN M.C.NO.143/2013.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

O.P (FC) No. 372 OF 2015

DATED THIS THE 21st DAY OF AUGUST, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner and respondent are husband and wife. The petitioner filed OP 680/2013 before the Family court, Kottarakkara seeking declaration of title over a property purchased in the joint name of the petitioner and the respondent. The respondent herein had filed MC 143/2013 seeking maintenance, which the Family Court had already ordered. She had also filed OP 473/2014 seeking return of money and gold ornaments and also OP 474/2013 seeking dissolution of the marriage. Now the Family Court is considering OP 680/2013, 474/2013 and 473/2014 together. It is submitted that the petitioner had no means to pay the maintenance awarded in MC 143/2013. According to him, in order to discharge the liability he has to sell out the property with respect to which declaration of title is sought for in OP 680/2013. Under such circumstances the petitioner seeks for a direction to the Family Court for an

early disposal of OP 680/2013. This original petition, invoking jurisdiction under Article 227 of the Constitution of India is filed seeking relief to the extent as mentioned above.

2. When the case came up for admission this court directed the Registry to get a report from the Family Court, with respect to the present position of the cases and also with respect to the time required for disposal of those cases. In a report submitted by the Judge of the Family Court, Kottarakkara, dated 19-08-2015 it is mentioned that OP 473/2014 and OP 474/2013 are posted to 03-09-2015 for evidence and OP 680/2013 is also posted along with the said cases. It is pointed out that, there are huge pendency of older cases, with respect to which target is fixed for early disposal. However, the learned Judge had opined that at least one year time is required for disposing the above said cases.

3. When 3 cases arising out of the same matrimonial dispute is pending before the Family Court, it is not proper and justifiable to have an early disposal of one of the

cases, especially when it is reported that all the cases are ripe of trial. Hence we are of the opinion that a disposal of all the cases together is highly desirable to achieve the ends of justice. Since it is reported all the 3 cases are ripe for trial it will be left open to the petitioner to move before the Family Court for a joint trial of all the cases. We take note of the report of the Judge of the Family Court that older targeted cases are pending for disposal. However, we take note of the assurance made to the effect that the cases will be disposed of within a period of one year.

4. Under the above mentioned circumstances, this original petition is disposed of by directing the Family Court to take all earnest efforts to conduct joint trial of all the 3 cases together, at the earliest possible, at any rate within the period mentioned in the report.

The original petition is disposed of accordingly.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge