

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

OP (FC).No. 384 of 2015 (R)

PETITIONER:

**THANKAMMA,
AGED 61 YEARS, W/O.SAMUEL, THEKKUVILA VEEDU
PADINJARUM KIZHAKKUM MURI, SOORANADU NORTH VILLAGE
KUNNATHOOR TALUK, KOLLAM.**

BY ADV. SRI.AJAYA KUMAR. G

RESPONDENT:

**BINCY
AGED 33 YEARS, D/O.BABY,
KANAPPALLIL VEEDU, PANDITHITTA
THALAVOOR P.O, THALAVOOR VILLAGE,
PATHANAPURAM TALUK, KOLLAM DISTRICT.**

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

OP (FC).No. 384 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE ORIGINAL PETITION IN OP 724/14 FILED BEFORE THE FAMILY COURT, CHAVARA.**
- EXHIBIT P2. COPY OF THE POWER OF ATTORNEY EXECUTED BY THE PETITIONERS SON IN HER FAVOUR DATED 18.6.14.**
- EXHIBIT P3. COPY OF THE IA 943/15 IN OP 724/14 BEFORE THE FAMILY COURT, CHAVARA.**
- EXHIBIT P4. COPY OF THE OBJECTION TO THE IA 943/15 IN OP 724/14 BEFORE THE FAMILY COURT, CHAVARA.**
- EXHIBIT P5. COPY OF THE ORDER DATED 28.7.15 IN IA 943/15 IN OP 724/14 BEFORE THE FAMILY COURT, CHAVARA.**

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

O.P (FC) No. 384 OF 2015

DATED THIS THE 19th DAY OF AUGUST, 2015

J U D G M E N T

K. Ramakrishnan, J:

This original petition is filed by the petitioner challenging Ext.P5 order in IA 943/2015 in OP 724/2015 on the file of the Family Court, Chavara under Article 227 of the Constitution of India.

2. The petitioner is the mother of the original petitioner in OP 724/2014 pending before Family Court, Chavara and she is representing the petitioner on the basis of power of attorney executed by him. According to the petitioner the petition was filed for divorce on the ground of cruelty and desertion. Since he had gone to Saudi Arabia in search of job on a visiting visa, he may not be able to come immediately as it will end in financial loss. The petition was filed by the petitioner on the basis of the power of attorney representing her son as IA 943/2015 for adjournment of the case for 6 months. This was opposed by the respondent by

filing objection and family court Judge by Ext.P5 impugned order dismissed the application. Aggrieved by the same the present petition has been filed.

3. Considering the nature of relief claimed and also submission made by the counsel for the petitioner that the son of the petitioner who is the petitioner in the lower court is expected to come during October, 2015 and he wanted only a short breathing time for him to come back and to contest the case, we felt that the petition can be disposed of at the admission stage itself, dispensing with notice to the respondent.

4. In the earlier petition filed by the petitioner on behalf of the son what is mentioned is that he wanted 6 months time to come back as he went to Saudi Arabia on a visiting visa in search of an employment. So the court below felt that that may not be a ground for granting adjournment especially when the case is posted for evidence. But at the same time if the petitioner had filed an application stating the time at which he will come and explaining the difficulties in coming, then that would have been considered

by the court below in the right perspective, that was not done in this case. So under the circumstances, if the petitioner files an application before the family court stating the reason for his not coming on a short period and undertaking to come within a particular time as undertaken before this court namely, last week of October, 2015 to proceed with the case then the family court is directed to consider and dispose of that application in accordance with law afresh untrammelled by the observations made in the impugned order.

With the directions and observations this petition is disposed of.

Office is directed to communicate this judgment to the concerned court immediately.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge