

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. 387 of 2015 (R)

ARISING FROM IA 1823/2015 IN OP (G&W) 680/2014 of
FAMILY COURT, MAVELIKKARA

PETITIONER/PETITIONER:

SANTHOSH K.VARGHESE,
AGED 48 YEARS,
CHIRATHALAKKAL VALYA VEETIL,
MEENTHALAKKARA MURI, KUTTAPUZHA VILLAGE,
THIRUVALLA TALUK, NOW RESIDING AT
OMAN INSURANCE COMPANY, P.O. BOX No.20,
PQ-1114, JIBROO, MUSCAT.

BY ADVS.SRI.SAIBY JOSE KIDANGOOR
SRI.R.LAIJU
SRI.MATHEWS RAJU

RESPONDENTS/RESPONDENTS:

1. SHEENA ABRAHAM,
AGED 43 YEARS, W/O. SANTHOSH K. VARGHEESE,
KATTAPPURATHU VEEDU, CHIRAKKADAVUE MURI,
KAYAMKULAM, KARTHIKAPPALLY TALUK, PIN-690502.
2. SHARON VARGHEESE,
AGED 16 YEARS (MINOR), S/O. SANTHOSH K. VARGHEESE,
KATTAPPURATHU VEEDU, CHIRAKKADAVUE MURI,
KAYAMKULAM, KARTHIKAPPALLY TALUK, PIN-690502.
3. SHERIN ABRAHAM VARGHEESE,
AGED 14 YEARS (MINOR), S/O. SANTHOSH K. VARGHEESE,
KATTAPPURATHU VEEDU, CHIRAKKADAVUE MURI,
KAYAMKULAM, KARTHIKAPPALLY TALUK, PIN-690502.

(RESPONDENTS 2 & 3 ARE MINOR CHILDREN REPRESENTED BY THEIR MOTHER
SHEENA ABRAHAM,
AGED 43 YEARS, W/O. SANTHOSH K. VARGHEESE,
KATTAPPURATHU VEEDU, CHIRAKKADAVUE MURI,
KAYAMKULAM, KARTHIKAPPALLY TALUK.)

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.387/2015.

APPENDIX

PETITIONER'S EXHIBITS

- EXT- P1- TRUE COPY OF THE WARNING LETTER ISSUED TO THE PETITIONER BY HIS EMPLOYER DATED 29-03-2011.
- EXT- P2- TRUE COPY OF THE ADVANCEMENT PETITION AS IA No.1825/2015 IN OP (G&W) No.680/2014 OF FAMILY COURT, MAVELIKKARA DATED 04-08-2015.
- EXT- P3- TRUE COPY OF THE PETITION SEEKING INTERIM CUSTODY AS IA No.1823/2015 IN OP (G&W) No.680/2014 OF FAMILY COURT, MAVELIKKARA DATED 04-08-2015

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

O.P (FC) No. 387 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 in IA 1823/2015 in OP (G&W) 680/2014 on the file of Family Court, Mavlikkara for issuing direction for speedy disposal of that application under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner herein is the petitioner in OP (G&W) 680/2014 which was filed by him for permanent custody of the children. The case was originally filed before Family Court, Alappuzha and thereafter it was transferred to Family Court, Mavelikkara wherein it is now pending. The petitioner was working abroad. He came to his native place during holidays and he will have to go back on 28-08-2015, after the expiry of the holidays. In the meantime he wanted to have interaction with the children. So he filed IA 1823/2015 for interim custody of the children along with Ext.P2 application, IA 1825/2015 for advance the hearing. The application was advanced and posted to 11-08-2015. On that date, at the request

of the respondent it was adjourned to 17-08-2015 and again adjourned to 22-08-2015. Since he is in need of seeing the children and he may not get leave for a further period of 2 years and he could not see the children for a further period of 2 years, he had no other option except to approach this court seeking a direction to the family court to consider that application at the earliest possible time.

2. Considering the nature of relief claimed, this court felt that the petition can be disposed of at the admission stage itself, dispensing with notice to the respondent.

3. The grievance of the petitioner is that he has come to India on leave and his leave will expire on 28-08-2015, before that he will have to go back to his work place. His further grievance was that he may not be able to get leave for a further period of 2 years and he may not be able to have any interaction with the children till that time. So he wants a direction to be given to the family court to dispose of the application at least before 22-08-2015. When an application is filed for interim custody of the children and also along with an application for advancement of hearing and having advanced the case, the court below is expected to pass some orders in the interim custody application. Further in this case, it appears that the grievance of

the petitioner appears to be genuine as well. So if the petitioner on 22-08-2015 insist for hearing of the application appraising the urgency, then court below is directed to consider that and pass appropriate orders in the application after hearing the counsel for the respondent, as expeditiously as possible at any rate within 3 days from 22-08-2015, so that the petitioner can have the satisfaction of disposal of the application before he goes abroad after the expiry of leave.

With the above directions and observations the original petition is disposed of.

Office is directed to communicate this judgment to the Family Court, Mavelikkara by fax immediately.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge