

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

OP (FC).No. 412 of 2015 ()

AGAINST THE JUDGMENT IN OP 351/2014 of FAMILY COURT, ERNAKULAM
PETITIONER(S)/RESPONDENT:

SHAJEER MON V.M AGED 28 YEARS
S/O.V.M.MAJEED, VELIYATH HOUSE, MATTAKKAD NORTH
HMT COLONY PO, KALAMASSERY, ERNAKULAM DISTRICT
PIN-683 503.

BY ADVS.SRI.R.PARAMESWARA IYER
SRI.SIRAJ KAROLY

RESPONDENT(S)/PETITIONER:

FASNA, AGED 22 YEARS
D/O.M.K.BASHEER, MAROTTIKKAL HOUSE, KUZHIVELIPADY
EDATHALA PO, ERNAKULAM DISTRICT, PIN-683 561.

BY ADV. SRI.T.MADHU

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 412 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 : TRUE COPY OF THE ORIGINAL PETITION FILED BY THE RESPONDENT
BEFORE THE FAMILY COURT, ERNAKULAM AS OP 351 OF 2014 DATED
18-2-2014.

EXT.P2 : TRUE COPY OF THE RELEVANT PAGES OF THE PASSPORT OF THE
PETITIONER.

EXT.P3 : TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE FAMILY
COURT, ERNAKULAM IN OP NO.351/2014 DATED 31-1-2015.

EXT.P4 : TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER AS
IA.2487/2015 IN OP 351/2014 BEFORE THE FAMILY COURT,
ERNAKULAM TO SET ASIDE THE EX PARTE ORDER DATED 24-6-2015.

EXT.P5 : TRUE COPY OF THE APPLICATION TO CONDONE THE DELAY FILED BY
THE PETITIONER AS IA 2488/2015 IN OP 351/2014 BEFORE THE
FAMILY COURT, ERNAKULAM, DATED 24-6-2015.

EXT.P6 : TRUE COPY OF THE EXECUTION APPLICATION FILED BY THE
RESPONDENT BEFORE THE FAMILY COURT AS EP NO.20/2015 IN
OP.351/2014 BEFORE THE FAMILY COURT, ERNAKULAM.

EXT.P7 : TRUE COPY OF THE PETITION FILED BY THE RESPONDENTS AS EA 64
OF 2015 IN EP 20 OF 2015 IN OP 351 OF 2014 ON THE FILE OF
THE FAMILY COURT, ERNAKULAM.

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

P.A TO JUDGE

vdv

C.K.ABDUL REHIM & MARY JOSEPH, JJ.

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O.P(F.C) No.412 of 2015

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Dated this the 18th day of November, 2015

JUDGMENT

Abdul Rehim, J.

The above original petition is instituted by the respondent in O.P No.351/2014 on the files of the Family Court, Ernakulam, seeking direction to consider Ext.P4 and Ext.P5 applications filed by him to set aside the ex-parte decree passed in the said case on 31.01.2015, after condoning delay of 138 days occurred in filing the said application. Inter alia, the petitioner seeks direction to restrain the Family Court from proceeding further with Ext.P6 Execution Petition, filed by the respondent as E.P No.20/2015, till Ext.P4 and P5 applications are disposed of by that court.

2. During pendency of the above original petition, the parties were referred for exploring possibility of a mediation settlement, by forwarding the case to the Ernakulam Mediation Centre. Report submitted by the Mediator, dated 11.11.2015 would indicate that, both the parties have decided to settle the

issues and to resume cohabitation. Accordingly, the parties have resumed cohabitation from 17.10.2015 onwards. The respondent herein had agreed not to pursue execution of the ex-parte decree passed on 31.01.2015 in O.P No.351/2014 and relinquish/waive the entire rights conferred by virtue of the ex parte decree. The terms of the settlement was reduced into a 'Memorandum of Agreement' drawn under Section 89 of the Code of Civil Procedure, signed by both the parties and their respective counsel. The 'Memorandum of Agreement' is also forwarded along with the report of the Mediator.

3. Counsel on both side submit that the above original petition can be disposed of in terms of the compromise by declaring that E.P No.20/2015 filed in O.P No.351/2014 before the Family Court, Ernakulam will stand dismissed on the basis of the compromise.

4. Accordingly the above original petition is disposed of by recording the terms of compromise arrived between the parties. The 'Memorandum of Agreement' produced along with the report of the Mediator would form part of this judgment. E.P No.20/2015 in O.P No.351/2014 on the files of the Family Court,

Ernakulam will stand dismissed in view of the terms of the compromise. Both parties will abide by the terms of the compromise with respect to all other matters.

Sd/-
C.K.ABDUL REHIM, JUDGE

Sd/-
MARY JOSEPH, JUDGE

vdv