

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON  
&  
THE HONOURABLE MR.JUSTICE K.HARILAL**

**WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937**

**OP (FC).No. 426 of 2015 (R)**  
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**AGAINST THE JUDGMENT IN OP 574/2013 of FAMILY COURT, TIRUR**

**PETITIONER(S):**  
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**KUNJIMOL, AGED 50 YEAR, W/O BAPPU, RESIDING AT HAJIYARE PURAKKAL  
HOUSE, PACHATTIRI AMSOM, PARACANNA DESOM, NEAR PARAVANNA  
M.E.S. HOSPITAL, TIRUR TALUK, MALAPPURAM DISTRICT, TIRUR POLICE  
STATION LIMIT, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.J.R.PREM NAVAZ  
SRI.P.T.SHEEJISH**

**RESPONDENT(S):**  
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**JAMSHEERA, AGED 22 YEARS, D/O HUSSAIN, MANDANTE PURAKKAL  
HOUSE, PARIYAPURAM AMSOM, DESOM, TANUR KORMAN BEACH, TIRUR  
TALUK, TANUR POLICE STATION LIMIT, MALAPPURAM DISTRICT 676 141**

**R1 BY ADV. SRI.K.P.SUDHEER  
R1 BY ADV. SRI.Y.JAFAR KHAN**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON  
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**AD**

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: THE TRUE COPY OF THE PETITION FILED BY THE RESPONDENT UNDER SECTION 7(1) (C ) OF THE FAMILY COURTS ACT DATED 24/05/2013 IN OP 574/13

EXHIBIT P2: THE TRUE COPY OF THE OBJECTION TO EXHIBIT P1 FILED BY THE PETITIONER ALONG WITH HER HUSBAND AND SON DATED 22/11/2013 IN OP 574/13

EXHIBIT P3: THE TRUE COPY OF THE ORDER IN O.P NO.574/2013 OF THE FAMILY COURT TIRUR DATED 13/10/2014

EXHIBIT P4: THE TRUE COPY OF THE E.P. NO.2 OF 2015 FILED BY THE RESPONDENT DATED 30/12/2014

EXHIBIT P5: THE TRUE COPY OF THE E.A. NO.5 OF 2015 DATED 30/12/2014

EXHIBIT P6: THE TRUE COPY OF THE OBJECTION TO EXHIBIT P4 APPLICATION FILED DATED 13/02/2015

EXHIBIT P7: THE TRUE COPY OF THE ORDER PASSED BY THE FAMILY COURT TIRUR ATTACHING THE IMMOVABLE PROPERTY OF THE PETITIONER DATED 8/1/2015

EXHIBIT P8: THE TRUE COPIES OF THE I.A. NO.1481 OF 2015 FILED UNDER ORDER IX RULE 13 OF THE CODE OF CIVIL PROCEDURE TO SEASIDE THE EXPARTIE DECREE PASSED IN O.P NO.574 OF 2015

EXHIBIT P9: THE TRUE COPY OF THE I.A. NO.1480 OF 2015 FILED SEEKING TO CONDONE THE DELAY IN FILING THE APPLICATION TO SET-ASIDE THE EXPARTIE ORDER

EXHIBIT P10: THE TRUE COPY OF THE SALE PROCLAMATION DATED 15/7/2015

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD

**P.R.RAMACHANDRA MENON &  
K.HARILAL, JJ**

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**O.P(FC) No. 426 of 2015**  
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**Dated this the 16<sup>th</sup> day of September, 2015**

**JUDGMENT**

P.R.RAMACHANDRA MENON,J

Grievance is mainly with regard to the coercive proceedings which have been pursued in furtherance to Ext.P3 order passed by Family Court, mulcting the liability primarily upon the shoulders of the appellant herein.

2. The sequence of events as narrated in the original petition shows that the son of the petitioner married the respondent herein on 04.03.2011 and two children were born out of the wedlock. It appears that there was rupture of the marital relationship, when the respondent approached the Family Court, Tirur by filing OP No. 574/2013 seeking for return of gold ornaments or the market value, plus such other reliefs as mentioned therein. It is seen that the claim was sought to be resisted from the part of the respondent including the petition herein. But subsequently the matter was not pursued from the part of the respondents 1 to 3 before the Family Court. They were set ex-parte, leading to

Ext.P3 verdict. As per Ext.P3, the petition was allowed and a decree for payment of Rs.6,84,200/- as value of 32 sovereigns gold ornaments and cash amount of Rs.25,000/- obtained by the 1<sup>st</sup> respondent by pledging the gold bangle of the petitioner was passed.

3. The learned Counsel for the petitioner points out that the respondent herein has filed an execution petition, wherein the petitioner herein has been shown as the sole judgment debtor, which is not correct or proper. Reference is also made to the prayer in Ext.P1 O.P and segregation of quantity of the gold stated as appropriated . The petitioner could not pursue the matter before the Family Court for various reasons; particularly when the son of the petitioner was missing for quite long and there were various coercive proceedings against him. It is pointed out that, for non-payment of maintenance ordered, he has already been apprehended and put to civil prison.

4. The learned Counsel for the petitioner submits that, the ex-parte verdict passed by the Family

Court was sought to be set aside by filing Ext.P8 petition, accompanied by Ext.P9 to condone of delay of 293 days in filing the same. These proceedings (Ext.P8 and Ext.P9) are listed to be considered on 25.09.2015. But in the meanwhile, without regard to the pendency of the proceedings, the property belonging to the petitioner has been proceeded against and the sale has been notified to be held on 23.09.2013, as revealed from Ext.P10. This made by the original petitioner to seek for consideration of Ext.P8 and Ext.P9. Sri.K.P.Sudheer and Sri.Jaffer Khan appear on behalf of the concerned respondents, pursuant to the completion of service of notice on admission through special messenger.

5. Heard both the sides in detail.

6. After hearing both the sides, this Court finds that the matter could be disposed of causing Ext.P8 and Ext.P9 to be considered and finalised within a reasonable time. Accordingly, there will be a direction to the Family Court to pass appropriate orders on Ext.P8 and Ext.P9 in accordance with law and of course after giving an

opportunity of hearing to the parties concerned (petitioner and respondent) at the earliest at any rate within 'two months' from the date of receipt of the certified copy of the judgment. Further proceedings pursuant to the sale notified on 23.09.2015 wide Ext.P10 shall be kept in abeyance till such time. The petitioner shall produce a copy of the judgment before the Family Court, Tirur for information for further steps.

The original petition is disposed of.

Sd/-  
**P.R.RAMACHANDRA MENON,**  
**JUDGE**

Sd/-  
**K.HARILAL,**  
**JUDGE**

AD