

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 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

OP (FC) .No. 431 of 2015 (R)

PETITIONER(S) :

MANOJ. C AGED 33 YEARS
S/O.RAJAMMA, RESIDING AT MANOJ BHAVANAM, KOUDMON PO
KODUMONCHIRA MURI, KODUMON VILLAGE, ADOOR TALUK
PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.M.MANOJ KUMAR
SMT.L.SMITHARAJ

RESPONDENT(S) :

REMYA RAJ
W/O.MANOJ, RESIDING AT REMYA NIVAS
THEVALAPPURAM (PO) & VILLAGE, KOTTARAKARA TALUK
KOLLAM DISTRICT, KERALA

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 431 of 2015 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1- TRUE COPY OF THE OP NO.934 OF 2013 ON THE FILE OF THE FAMILY
COURT, KOTTARAKKARA

EXT.P2- TRUE COY OF THE OP NO.1182/2014 ON THE FILE OF THE FAMILY
COURT, KOTTARAKARA

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

P.A TO JUDGE

vdv

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

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OP(FC) No.431 of 2015

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Dated this the 30th day of September, 2015

JUDGMENT

Abdul Rehim, J.

The petitioner and the respondent are husband and wife. There is a child born out of their wedlock. The marital relationship now remains strained. The respondent had filed O.P No.934 of 2013 before the Family Court, Kottarakara seeking return of gold ornaments, cash and seeking other incidental reliefs, against the petitioner and his mother. The petitioner had earlier filed a case seeking restitution of conjugal rights, which was withdrawn since it was realised at the time of mediation that the respondent is not prepared to resume cohabitation. Subsequently the petitioner filed O.P(HMA) No.413 of 2014 seeking dissolution of the marriage, before the Family Court, Pathanamthitta. The respondent herein sought transfer of the said case to the Family Court, Kottarakara, which was allowed by this court. Now the said case stands transferred to the Family Court, Kottarakara and re-numbered as O.P No.1182 of 2014.

Both the cases, O.P Nos.934 of 2013 and 1182 of 2014 are now pending disposal before the Family Court, Kottarakara. It is stated that the petitioner is working as a Para Military Staff in Assam Rifles. Based on an approach made by the respondent at the Head Quarters of Assam Rifles, monthly maintenance was sanctioned to her and an amount of Rs.12,000/- per month is being deducted from the salary of the petitioner for payment to the respondent.

2. In the writ petition it is stated that the petitioner came on leave for adducing evidence in O.P No.934 of 2013. Despite the fact that the Family Court referred the matter for counselling and mediation the issues could not be settled because of the adamant stand of the respondent is the allegation. It is also alleged that the respondent is attempting to prolong the cases, because she is getting monthly maintenance through the authorities of the Assam Rifles. Despite several appearance made by the petitioner before the Family Court, Kottarakara, the cases were not taken for trial because the respondent is not co-operating, is the allegation. Under such circumstances, the petitioner is approaching this court invoking jurisdiction vested under Article 227 of the Constitution of India, seeking directions

for an early disposal of both the above said cases, within a time limit to be stipulated.

3. When the above original petition came up for admission, this court directed the Registry to call for a report from the Family Court, Kottarakara regarding the present stage of the cases and with respect to the maximum time required for its disposal. Accordingly, learned Judge of the Family Court had submitted a report to this court on 23.09.2015. In view of the report received from the Family Court and in view of the nature of relief proposed to be granted on the basis of such report, we dispense with issuance of notice to the respondent.

4. It is reported by learned Judge of the Family Court that counselling and mediation stands completed in both the cases and the cases are now stands posted to 12.10.2015. It is mentioned that objections were not filed in both the cases, so far. It is pointed out that there is a huge pendency of old cases before that court and there are good number of old cases earmarked for time bound disposal. However, the learned Judge had opined that both the cases can be disposed of within a period of one year after filing objections, provided the parties are co-operating.

4. This court takes note of the fact that the relevant cases pending before the Family Court are of the years 2013 and 2014. When a large number of older cases are pending disposal, it may not be justifiable on the part of this court to stipulate any time limit for disposal of the cases in question, which may cause prejudice to those who are waiting in the queue. However, considering the fact that the petitioner is working in the Para Military Service under Assam Rifles, we think that a preference need to be given in the matter of disposal of the cases in question.

Hence we dispose of the writ petition directing the Family Court, Kottarakara to take necessary steps to have an expeditious disposal of O.P No.934 of 2013 and 1182 of 2014. The Family Court shall take necessary steps to have joint trial of both the cases. At any rate, the cases shall be disposed of within the period as reported to this court.

Sd/-
C.K .ABDUL REHIM, JUDGE

Sd/-
MARY JOSEPH, JUDGE