

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. 515 of 2015 (R)

AGAINST THE JUDGMENT IN OP 58/2010 of FAMILY COURT,TRIVANDRUM

PETITIONER(S)/PETITIONER:

R.SURESH AGED 50 YEARS
S/O.RAJENDRAN NAIR, PONMANAM, SOUHRIDA NAGAR
ALUMMOODU, NEYYATTINKARA P.O., NEYYATTINKARA
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.V.G.ARUN (K/795/2004)
SRI.ANOOP BHASKAR

RESPONDENT(S)/RESPONDENT:

T.RAJALAKSHMI
D/O.LALITHABAI, PONMANAM, SOUHRIDA NAGAR
ALUMMOODU, NEYYATTINKARA P.O., NEYYATTINKARA
THIRUVANANTHAPURAM DISTRICT
NOW RESIDING AT PANAYIL PUTHENVEEDU
C/O.THULASEEDHARAN NAIR, NEAR ELANKAM TEMPLE, KARAMANA
KARAMANA P.O., THIRUVANANTHAPURAM, 695002.

BY ADV. SRI.BASANT BALAJI

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 18-11-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 515 of 2015 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE O.P.NO.58/2010 ON THE FILE OF THE FAMILY COURT, THIRUVANANTHAPURAM.

EXHIBIT-P2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN O.P.NO.58/2010 ON THE FILE OF THE FAMILY COURT, THIRUVANANTHAPURAM.

EXHIBIT-P3: TRUE COPY OF THE CHEQUE APPLICATION NO.117/15 FILED BY THE RESPONDENT IN O.P.NO.58/2010 BEFORE THE FAMILY COURT, THIRUVANANTHAPURAM.

EXHIBIT-P4: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 08.10.2015 TO EXT.P3 CHEQUE APPLICATION IN O.P.NO.58/2010 ON THE FILE OF FAMILY COURT, THIRUVANANTHAPURAM.

/true copy/

P.S. to Judge.

SL.

C.K.Abdul Rehim & Mary Joseph, JJ.

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O.P.(FC) No.515 of 2015

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Dated this the 18th day of November, 2015.

JUDGMENT

Abdul Rehim, J.

1. The petitioner herein is the respondent in O.P.No.58 of 2010 before the Family Court which is filed by the respondent herein, seeking for recovery of money and maintenance. O.P.No.58 of 2010 was decreed ex-parte by the Family Court, which was sought to be set aside by the petitioner by filing I.A.No.2467 of 2012 along with I.A.No.2468 of 2012 seeking condonation of delay in filing the said application. Both the applications were allowed by the Family Court through order dated 12.3.2014, subject to condition of the petitioner depositing sum of ₹1,92,000/- as security and paying cost of ₹5,000/- to the respondent. It is stated that the petitioner had complied with that condition and the original petition now stands

restored on the files of the Family Court.

2. Meanwhile the respondent herein filed Cheque Application No.117 of 2015 before the Family Court seeking withdrawal of the amount of ₹1,92,000/- deposited. The petitioner filed objections to the Cheque Application, as evidenced from Ext.P4. But the Family Court had allowed the Cheque Application through order passed on 26.10.2015. It is stated in the writ petition that, eventhough the petitioner had filed a copy application for obtaining a certified copy of the order dated 26.10.2015, the same is not yet issued. It is contended that if the respondent is permitted to receive the cheque from the Family Court without affording the petitioner with an opportunity to challenge the order passed on 26.10.2015, that will cause severe prejudice and loss. Hence this original petition is filed invoking the supervisory jurisdiction vested on this court under Article 227 of the Constitution of India, seeking direction for issuance of a certified copy of the order dated 26.10.2015. *Inter*

alia direction is sought for to restrain the Family Court from issuing the cheque, till a certified copy of the order is issued to the petitioner.

3. When the original petition came up for admission on 2.11.2015, this court passed an interim order directing the Family Court, Thiruvananthapuram to issue certified copy of the order passed by the Family Court on 26.10.2015, within a period of three days from the date of receipt of the interim order. Issuance of the cheque based on the order dated 26.10.2015 was stayed for a period of two weeks, which was subsequently extended.
4. When the case was taken up for consideration on 16.11.2015, counsel appearing for the petitioner was not in a position to submit before this court as to whether a certified copy was issued on the basis of the interim direction or not. He was not even in a position to submit the exact date on which the copy of the interim order of this court was produced before the Family Court. Therefore we directed the Registry to obtain instructions from the Family Court as to when

the interim order dated 2.11.2015 was received at that court and as to whether a certified copy was issued as per the direction.

5. Today when the case is taken up for consideration, the Registry has reported that, instructions received from the Family Court is to the effect that the interim order dated 2.11.2015 was received at the Family Court on 9.11.2015 and certified copy of the order was already issued to the petitioner on 16.11.2015.
6. Under the above mentioned circumstances, the petitioner can pursue his challenge against the order dated 26.10.2015 in appropriate proceedings by producing the certified copy.
7. Reserving such liberty of the petitioner as mentioned above, this original petition is dismissed, since it has become infructuous.

C.K.Abdul Rehim, Judge.

Mary Joseph, Judge.

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