

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

OP (FC).No. 532 of 2015 (R)

OP 41/2015 OF FAMILY COURT, ERNAKULAM, DATED 12-10-2015

PETITIONER(S):

**SINOJ R. NAIR, AGED 32 YEARS,
S/O RADHAKRISHNAN, CHANDRATHIL (H), SOUTH ADUVASSERY,
KUNNUKARA VILLAGE, ERNAKULAM DISTRICT.**

BY ADV. SRI.BIJU.P.N.

RESPONDENT(S):

**SRUTHI MOLE NAIR, AGED 25 YEARS,
D/O NARAYANAN, MAYATTU (H), CHENGAMAND P.O.,
THATTAMPARAMBIL ROAD, CHENGAMAND VILLAGE,
ERNAKULAM DISTRICT, PIN:683578.**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

OP (FC).No. 532 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBTI P1: TRUE COPY OF THE INTERIM ATTACHMENT ORDER DATED 12.3.2015

**EXHIBTI P2: TRUE COPY OF THE INTERIM APPLICATION NO.4052/2015 IN OP
NO.41/15 DATED 12.10.2015.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

**C.K. ABDUL REHIM, J.
&
MARY JOSEPH, J.**

O.P (FC) No. 532 OF 2015

DATED THIS THE 13th DAY OF NOVEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

In view of the nature of relief proposed to be granted in this original petition issuance of notice to the respondent is not necessary. Hence notice to the respondent is hereby dispensed with.

2. Limited relief sought for in this original petition is a direction to the Family Court, Ernakulam to consider and to dispose of the interim application filed as Ext.P2 (I.A. No.4052/2015 in OP No.41/2015), within a period of 3 weeks. The case before the court below was instituted by the respondent herein seeking return of money. Along with the original petition, the respondent had filed IA No.104/2015 seeking interim attachment before judgment with respect to certain immovable property. The Family court had passed Ext.P1 order on 12-01-2015 directing the petitioner herein to furnish security for the suit claim of Rs.11,62,600/- or to appear and

show cause as to why the security demanded shall not be furnished. According to the petitioner, he has filed Ext.P2 interim application before the Family court as IA No.4052/2015 to limit the attachment only with respect to 6 cents of property out of the total extent of 18.5 cents comprised in the schedule of attachment. It is stated that the value of the property having an extent of 6 cents will be sufficient to satisfy the plaint claim. It is also mentioned that respondent herein had filed an objection to IA No.4052/2015. Learned counsel for the petitioner submitted that Ext.P2 interim application now stands posted for consideration in December, 2015. It is submitted that due to the interim order of attachment the petitioner is put to difficulty, because various liabilities incurred by him while running a business could not be discharged. Therefore the petitioner seeks direction for an early consideration and disposal of Ext.P2 interim application.

3. We notice that Ext.P1 is only a show cause notice issued under Order XXXVIII Rule 5 and it is not an order of attachment. It does not indicate any attachment of the property ordered by the court, either conditionally or as absolute. At any rate, the application (Ext.P2) now filed by the petitioner can be considered as one seeking modification/lifting of attachment with

respect to a portion of the property. It is for the Family Court to consider such an application with due notice to the other side and to pass appropriate orders. Interest of justice could be achieved by directing an early disposal of the said application.

4. Under the above mentioned circumstances the original petition is hereby disposed of by directing the Family Court, Ernakulam to consider IA No.4052/2015 in OP No.41/2015, filed by the petitioner herein, with opportunity afforded to the respondent, and to dispose of the same at the earliest possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

AMG

True copy

P.A. to Judge