

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

OP (FC).No. 553 of 2015 (R)

AGAINST THE ORDER/JUDGMENT IN OP 259/2015 of FAMILY
COURT,ERNAKULAM .

PETITIONER(S):

SUBI MARY AGED 44 YEARS
D/O.KURUVILA MATHEW, W/O.REJI BABY
703 B KANJANJUNGA APARTMENT, PIPELINE JUNCTION
PALARIVATTOM, COCHIN.

BY ADVS.SMT.K.V.BHADRA KUMARI
SMT.ANILA GEORGE
SMT.T.C.MARYKUTTY

RESPONDENT(S):

REJI BABY
S/O.P.K.BABY, AGED 52 YEARS, PATHIFIL PUTHENPURAYIL
KURAMPALA EAST.P.O., PANDALAM
PATHANAMTHITTA DISTRICT-689 646.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 21-
11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

OP(FC).No. 553 of 2015

Dated this the 21st day of November, 2015

JUDGMENT

Abdul Rehim,J.

The above original petition is filed under Article 227 of the Constitution of India by invoking the supervisory jurisdiction vested on this court, for a direction to the Family Court, Ernakulam to dispose of OP.No.259/2015, urgently, within a time frame to be stipulated.

2. The case before the Family Court was filed by the petitioner herein against the respondent, seeking for dissolution of their marriage, which was solemnised on 31.12.1990. The allegation in brief is that, the petitioner was treated with cruelty all along and he had neglected to maintain her. It is stated that, after delivering a child in the year 1997, the respondent was not prepared to take the petitioner and the daughter to his place of work and they were left in an abandoned condition. It is averred that OP.No.259/2015 was filed before the Family Court on

13.2.2015 and the respondent had entered appearance in the said case on 9.6.2015. Thereafter the case was referred for counselling, but the issues could not be settled. After counselling the case was posted to 2.9.2015 for filing objection of the respondent. But he has not filed any objection on the said date or on the subsequent posting date on 6.11.2015. It is stated that the case now stands posted to 14.1.2016 for filing objection/counter of the respondent. Alleging that the respondent is intentionally protracting the matter and also contending that an early disposal of the case is highly necessary, because the petitioner wants to migrate to Florida along with the child where her brother is working, this writ petition is filed seeking for an early disposal of the case.

3. It is true that matrimonial cases should be given utmost preference in the matter of speedy disposal. Delay in disposal of the matrimonial disputes will definitely cause hardships and legal prejudices to the parties concerned. But this court cannot shut down its eyes against the realities existing.

4. From various reports received to this court in many cases, it is intimated that more than 5500 cases are pending

disposal before the Family Court at Ernakulam. Similarly most of the Family Courts within the state are flooded with large number of pending cases. We notice that, out of the pendency before the Family Court at Ernakulam, a large number of cases which is about more than 1500, are old cases pertaining to various years prior to 2012. Eventhough the petitioner had narrated certain circumstances which are justifying for a speedy disposal of the case at hand, we are quite sure that similar circumstances will be existing in majority of the cases which are pending disposal before the said court. When very old cases, extending to a large number, are pending disposal before the Family Court and when this court is continuously issuing directions on the administrative side to have disposal of older cases, it is not proper for issuing a direction to dispose of a case of the year 2015 within any time frame. If such an order is issued, we are sure, that will be resulting in doing injustice to those who are waiting in the queue for disposal of their cases at the earliest.

5. In the case at hand it is evident that the counselling is over. It is stated that the respondent had sought two

adjournments for filing of the objections. If there exists any special circumstance which warrants a early disposal of the matter, it will be always left open to the petitioner to move the Family Court seeking for advancement of the posting of the case. It will be also left open to the petitioner to file an appropriate application before that court seeking for an early disposal of the matter, by appraising that court with respect to the urgent need. We do not find any reason to presume that if any such approach is made by the petitioner, the same will not be considered by the Family Court.

6. Hence, while dismissing the above original petition, we reserve liberty to the petitioner to approach the Family Court for an early disposal of the case, by recourse to appropriate procedure as mentioned above.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/

