

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 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

OP (FC).No. 565 of 2015 (R)

**(ARISING FROM OP No.87/2014, OP (G&W) No.659/2014, MC No.171/2014 AND
OP (HMA) No.402/2015 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA)**

PETITIONER:

**V. MADHUSOODANAN,
AGED 49 YEARS, S/O. VASU,
KAKKAKONATHU HOUSE, (SOUPARNIKA) AIRAKKUZHI
MUTHAYIL, MANGODE VILLAGE, KOTTARAKKARA,
KOLLAM DISTRICT-691 506.**

**BY ADVS.SRI.C.S.MANU
SRI.S.K.PREMRAJ**

RESPONDENTS:

- 1. DEEPA, AGED 39 YEARS
D/O. MANASEE BHAI, RAVIVILASAM, ATTOORKONAM MURI
VELINELLOOR VILLAGE, KOTTARAKKARA TALUK, KOTTARAKKARA
KOLLAM DISTRICT-691 506.**
- 2. NAVYA , AGED 11 YEARS
D/O. V.MADHUSOODANAN, RAVIVILASAM, ATTOORKONAM MURI
VELINELLOOR VILLAGE, KOTTARAKKARA TALUK, KOTTARAKKARA
KOLLAM DISTRICT-691 506, REPRESENTED BY HER GUARDIAN,
MOTHER DEEPA (1ST RESPONDENT).**
- 3. NAVAMI , AGED 11 YEARS
D/O. V.MADHUSOODANAN, RAVIVILASAM, ATTOORKONAM MURI
VELINELLOOR VILLAGE, KOTTARAKKARA TALUK, KOTTARAKKARA,
KOLLAM DISTRICT-691 506, REPRESENTED BY HER GUARDIAN,
MOTHER DEEPA (1ST RESPONDENT).**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 16-12-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** COPY OF OP NO.87/2014 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA FILED BY THE 1ST RESPONDENT.
- P1(A):** COPY OF THE OBJECTIONS AND COUNTER CLAIM FILED BY THE PETITIONER IN OP NO.87 OF 2014 BEFORE THE FAMILY COURT, KOTTARAKKARA.
- P2 :** COPY OF B-DIARY IN OP NO.87 OF 2014 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA FILED BY THE 1ST RESPONDENT.
- P3 :** COPY OF OP(G&W)NO.659 OF 2014 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA FILED BY THE PETITIONER.
- P4 :** COPY OF B-DIARY OF OP(G&W)NO.659 OF 2014 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA.
- P5 :** COPY OF MC NO.171 OF 2014 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA FILED BY THE RESPONDENTS.
- P5(A):** COPY OF THE OBJECTIONS FILED BY THE PETITIONER IN MC NO.171 OF 2014 BEFORE THE FAMILY COURT, KOTTARAKKARA.
- P6 :** COPY OF B-DIARY IN MC NO.171 OF 2014 ON THE FILES OF THE FAMILY COURT, KOTTARAKKARA.
- P7 :** COPY OF OP(HMA)NO.402 OF 2015 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, KOTTARAKKARA.
- P8 :** COPY OF B-DIARY IN OP (HMA) NO.402 OF 2015 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, KOTTARAKKARA.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

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

O.P (FC) No. 565 OF 2015

DATED THIS THE 16th DAY OF DECEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

This original petition under Article 227 of the Constitution of India is filed seeking direction to the Family Court, Kottarakkara to dispose of the cases, OP No.87/2014, OP (G&W) No.659/2014, OP (HMA) No.402/2015 and MC No.171/2014 on an early basis, within a time limit to be stipulated.

2. All the above cases arise out of matrimonial dispute between the petitioner and the 1st respondent. Respondents 2 & 3 are the children born out of their wedlock. OP No.87/2014 is filed by the respondent herein seeking maintenance. OP (G&W) No.659/2014 is filed by the petitioner herein seeking custody of the minor children. MC No.171/2014 is filed by the respondents seeking maintenance from the petitioner. OP (HMA) No.402/2015 is

filed by the petitioner seeking dissolution of the marriage on the ground that the 1st respondent had failed to resume cohabitation despite the fact that the court below had allowed OP (HMA) No.1676/2013 filed by the petitioner seeking restitution of conjugal rights.

3. The petitioner had produced documents to show that he had already filed objections in the cases, wherein he is impleaded as respondent. But the allegation is that the proceedings in the other cases are unduly delayed at the instance of the respondents. It is alleged that the Family Court is granting unnecessary adjournments, which had resulted in indefinite dragging of the cases, causing prejudice and legal injuries to the petitioner. Hence the petitioner is approaching this court seeking for an early disposal of the above said cases.

4. When the matter came up for consideration this court directed the Registry to call for a report from the Family Court, Kottarakkara. The learned Judge had submitted a report on 10-12-2015. It indicates that

counselling is complete in all the cases. The report is to the effect that the parties were willing for a re-union subject to certain conditions regarding transfer of landed properties. But subsequently they have deviated from such an understanding. It is stated that Adalth and Mediations were conducted for a conciliation, which had failed. It is stated in the report that all the cases now stand posted to 29-12-2015 for filing objections in those cases where objections are not so far filed. Learned Judge of the Family Court had opined that, considering the heavy pendency in the said court and also considering the time limit already fixed for disposal of certain other cases, the cases between the parties at hand can be disposed of within an outer limit of one year, after filing objections and after completing evidence.

5. Considering the limited relief sought for and proposed to be granted in this original petition, this court is dispensing with notice to the respondents.

6. Taking note of the report submitted by the Judge of the Family Court that the cases are not ripe for trial we

are of the opinion that the cases could not be disposed of within a short time. It is mentioned that there is heavy pendency of old cases before the Family Court. Any out of turn preference for disposal of the cases, if ordered by this court, will result in causing injustice to those who are waiting in the queue in older cases which are pending before the said court. However, we take note of the report of the Family Court and direct the Family Court to take all earnest efforts to dispose of OP No.87/2014, OP (G&W) No.659/2014, OP (HMA) No.402/2015 & MC No.171/2014 on an early basis, at any rate, within a period of one year 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