

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

OP (FC).No. 597 of 2015 (R)

PETITIONER:

KUNJAPUTTY @ AVARU,
AGED 64 YEARS, S/O.ERİYADAN VEETIL HASSAN,
CHAPPANAGAD VILLAGE DESOM, CHAPPANGADI P.O.
MALAPPURAM DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT:

AYISHA,
AGED 60 YEARS, D/O.KOTTİYADAN MOIDEEN,
NAYATUKUNNU CHOKANA DESOM
VELLIKULANGARA, MUKUNDAPURAM TALUK-680 001.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

OP (FC).No. 597 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - A TRUE COPY OF THE OP NO.1080/2012 ON THE FILE OF THE FAMILY COURT, IRINJALAKUDA DATED 14/6/2012.

EXT.P2. - A TRUE COPY OF THE ORDER PASSED IN IA NO.1952/2015 IN OP NO.1080/2012 ON THE FILE OF THE FAMILY COURT, IRINJALAKUDA DATED 30/10/2015

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

**C.K. ABDUL REHIM, J.
&
ALEXANDER THOMAS, J.**

O.P (FC) No. 597 OF 2015

DATED THIS THE 22nd DAY OF DECEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

In this original petition instituted under Article 227 of the Constitution of India, the petitioner is challenging an order passed by the Family Court, Irinjalakuda in IA No.1952/2015 in OP No.1080/2012 (Ext.P2).

2. The original petition before the court below was filed by the respondent herein seeking for return of gold ornaments and for realization of maintenance, both past and future. Trial of the case has started before the court below and PW1 to PW3 were examined on behalf of the respondent herein. Exhibits A1 to A3 documents were also marked. Subsequently the petitioner herein, who the respondent before the court below, was examined as RW1. Witnesses on behalf of him were also examined as RW 2 & 3. Thereafter the petitioner filed an application before the court below to forward a C.D for examination by an expert. Eventhough the court below granted

sufficient time to the petitioner to take steps for the said purpose, the petitioner has not taken any earnest efforts to get the C.D. examined through the expert. Meanwhile the respondent herein filed an application seeking interim maintenance, pendente lite. The court below granted interim monthly maintenance to the respondent @ Rs.3,500/-. It is challenging the said order this original petition is filed.

3. It is evident from the impugned order that the claim was for payment of Rs.6,000/-. Contention raised on behalf of the petitioner is that, he is laid up and he is not able to pay Rs.6,000/- per month as interim maintenance. The court below found that the respondent is also suffering from various old age illness and under such circumstances it was ordered to pay maintenance @ Rs.3,500/-.

4. Jurisdiction vested on this court under Article 227 is supervisory in nature. This court is not sitting in appeal or revision against the order impugned. Unless any grave error of jurisdiction is committed by the court below, no interference is warranted. We do not think that there exists any perverse exercise of jurisdiction vested on the court below in granting interim maintenance pendente lite. The only contention raised is

to the effect that the petitioner is suffering from illness and is not able to pay the amount of maintenance ordered. At the same time the court below had taken note of the fact that the case is being protracted only because of failure on the part of the petitioner. It is also noticed that the respondent is suffering from various illness and she need to be provided with maintenance for survival. Therefore the impugned order cannot be termed as one issued in an arbitrary manner. Nor any contention that the order is violative of any statutory provisions. Hence we are declining to interfere with the order impugned in this original petition, which is filed invoking the supervisory jurisdiction vested on this court.

In the result the original petition fails and the same is hereby dismissed.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

ALEXANDER THOMAS, JUDGE.

AMG

True copy

P.A. to Judge