

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN**

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

OP (FC).No. 39 of 2014 (R)

OP 1580/2010 OF FAMILY COURT, THRISSUR DATED 14-09-2011

PETITIONER(S)/RESPONDENT:

**RAZAK, AGED 40 YEARS,
S/O.KUNJI MUHAMMED, KATTUPARAMBIL HOUSE,
OLLUKKARA,
THRISSUR DISTRICT.**

**BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA**

RESPONDENT(S)/PETITIONER:

**SHAMEELA,
D/O.SAFFIA, KARUPPAMVEETIL HOUSE,
MANNUTHY DESOM
OLLUKKARA, THRISSUR DISTRICT, 680 655.**

**THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON 25-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE PETITION IN OP 1580/10 OF THE FAMILY COURT, THRISSUR.
- EXHIBIT P2. COPY OF THE AGREEMENT DATED 2.11.07.
- EXHIBIT P3. COPY OF THE ORDER DATED 14.9.11 IN OP.1580/10 OF THE FAMILY COURT, THRISSUR.
- EXHIBIT P4. COPY OF THE IA 7650/11 IN OP 1580/10 OF THE FAMILY COURT, THRISSUR.
- EXHIBIT P5. COPY OF THE COUNTER IN EP 51/12 IN OP 1580/10 BEFORE THE FAMILY COURT, THRISSUR.
- EXHIBIT P6. COPY OF THE PROCEEDINGS IN EP 51/12 IN OP 1580/10 OF FAMILY COURT, THRISSUR.
- EXHIBIT P7. COPY OF IA NO.4166/13 IN IA 7650/11 IN OP 1580/10 OF THE FAMILY COURT, THRISSUR.
- EXHIBIT P8. COPY OF THE IA 4167/13 IN IA 7650/12 IN OP 1580/10 OF THE FAMILY COURT, THRISSUR.
- EXHIBIT P9. COPY OF THE IA 4168/13 IN IA 7651/11 IN OP 1580/10 OF FAMILY COURT, THRISSUR.
- EXHIBIT P10. COPY OF THE IA 4169/13 IN IA 7651/11 IN OP 1580/10 OF FAMILY COURT, THRISSUR.
- EXHIBIT P11. COPY OF THE FIR IN CRIME NO.464/07 OF MANNUTHY POLICE STATION.
- EXHIBIT P12. COPY OF THE FIR IN CRIME NO.424/08 OF MANNUTHY POLICE STATION.
- EXHIBIT P13. COPY OF AGREEMENT EXECUTED BETWEEN THE PETITIONER AND THE RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

C.K.ABDUL REHIM & K.RAMAKRISHNAN, JJ.

OP(FC).No. 39 of 2014

Dated this the 25th day of June, 2015

JUDGMENT

K.Ramakrishnan,J.

This writ petition has been filed by the respondent in OP.No.1580/2010 on the file of the Family Court, Thrissur invoking the supervisory jurisdiction vested under Article 227 of the Constitution of India.

2. It is alleged in the petition that the respondent herein had filed OP.No.1580/2010 seeking return of 17 sovereigns of gold ornaments or its value for a sum of Rs.2,38,000/-. The case was decided exparte and the respondent herein also filed execution petition for execution of the exparte decree. In the meantime the petitioner filed IA.No.7650/2011 as Ext.P4 to set aside the exparte decree along with IA.No.7651/2011 to condone the delay and those petitions were dismissed for default. Thereafter as advised by some other counsel, he filed fresh application to set aside the exparte decree as I.A.No.3002/2013 along with IA.No.3003/2013 to condone the delay. Thereafter those petitions were withdrawn and filed application to restore the earlier applications filed. Thereafter the exparte order was

set aside on certain conditions but the conditions were not complied with. In the meantime, the matter has been settled between the parties out the court. At that time since the petitions were pending before the court below and execution petition was proceeding, as an abundant caution, the petitioner has filed this petition seeking a direction to the Family Court to consider and dispose of the applications filed by him before the court below. Since those applications were already disposed of by the Family Court and execution petition is pending, counsel for the petitioner himself has submitted that during the pendency of those petitions a compromise was entered into between the parties outside the court which has to be recorded and he will have to give liberty to move the Family Court for an order on the basis of the terms of settlement. With that observation OP can be disposed of.

2. Considering the above submission the writ petition is disposed of leaving open the right of the petitioner to move either the execution court or Family Court to get appropriate relief on the basis of the compromise entered into between the parties outside the court. If the Family Court accepts the compromise and passes orders, then appropriate orders will be

passed by the Family Court in respect of the amount deposited by the petitioner as a condition for stay of the execution proceedings. Communicate the order to the court below at the earliest.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

pmn/

