

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

OP (FC) .No. 125 of 2014 (R)

AGAINST THE ORDER IN I.A.NO.296/14 IN OP 692/2013 of FAMILY COURT,
IRINJALAKUDA DATED 24.2.2014

PETITIONER(S) /RESPONDENT/PETITIONER:

ASHIF AGED 29 YEARS
S/O.THAIVALAPPIL UMMER HAJI, KARUPADANNA DESOM
THEKKUMKARA VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENT(S) /PETITIONER/RESPONDENT

SAMEEDA, AGED 22 YEARS
D/O.ARAKKAVEETIL ABOOBAKKAR, THALIYAM VILLAGE
CHAVAKKAD TALUK, THRISSUR DISTRICT-680008.

BY SRI.C.Y.VINOD KUMAR

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
09-02-2015, ALONG WITH OP(FC) NO.140/14, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

OP (FC).No. 125 of 2014 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1- A TRUE COPY OF THE ORIGINAL PETITION IN O.P.NO.692/2013.

P2- A TRUE COPY OF THE I.A.NO.296/2014 IN O.P.NO.692/2013.

P3- A TRUE COPY OF THE OBJECTION IN I.A.NO.296/2014 DATED 19.02.2014.

P4- A TRUE COPY OF THE ORDER IN I.A.NO.296/2014 IN O.P.NO.692/2013
DATED 24.02.2014.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

V.K.MOHANAN & P.D.RAJAN, JJ.

O.P.(F.C.)Nos.125 and 140 of 2014

Dated this the 9th day of February, 2015.

J U D G M E N T

Mohanan, J.

As both the above original petitions are arising out of one and the same common order dated 24.2.2014 in I.A.No.296/14 in O.P.No.692/13 on the file of the Family court, Irinjalakuda, and as the facts and circumstances involved are identical, the above original petitions are being heard together and disposed of by this common judgment.

2. O.P.(F.C.)No.125/14 is preferred by the respondent in I.A.No.296/14, who is the petitioner in O.P.No.692/13 of the court below, whereas O.P.(F.C.)No.140/14 is filed by the petitioner in the said interlocutory application, who is the respondent in O.P.No.692/13. O.P.No.692/13 is filed by the husband against his wife, whose marriage was solemnised in accordance with Muslim religious rites and custom on 26.6.2011 and that original petition was filed seeking orders

for return of gold ornaments or its market value and for other consequential reliefs. During the pendency of the above original petition, the respondent therein who is the wife filed I.A.No.296/14 in the above original petition with a prayer to issue an order restraining the respondent, who is her husband and the petitioner in O.P.No.692/13 from re-marrying any other lady. By the impugned order, the learned Judge of the Family court has found that the prayer of the said interlocutory application to restrain the respondent from re-marrying another lady is not sustainable ; however, the court below irrespective of the above finding, passed the following order : "Respondent shall maintain an order of status-quo (married status), until the grievances of the petitioner are settled by way of compromise arriving in mediation." It is against the above order, the aggrieved parties to the lis, who are the husband and wife, preferred the above original petitions.

3. Heard the learned counsel appearing for the contesting parties.

4. We have perused the order impugned. Both the counsel submitted that the conciliation proceedings are over and as such, these original petitions became infructuous, since the impugned order was in force till the conciliation and accordingly, both the counsel submitted that these original petitions can be disposed of directing the court below to dispose of the main matter, ie.,O.P.No.692/13 pending in that court.

5. Having regard to the facts and circumstances involved in the case, we also of the view that, in the light of the fact that the mediation proceedings have failed, the order impugned in this petition virtually became inoperative, since status quo was ordered by the court below until the grievances of the wife are settled by way of compromise arriving in mediation, that too after a finding that the prayer in the said petition is unsustainable.

In the result, the above original petitions are disposed of, without going into the merits of the order passed by the learned Judge of the Family court, and as agreed by both the counsel appearing for the contesting parties, directing the learned Judge of the Family court to take up O.P.No.692/13, if the pleadings therein are over and proceed with the trial of the same and dispose the matter as expeditiously as possible.

Sd/-
V.K.MOHANAN, Judge

Sd/-
P.D.RAJAN, Judge

ami/

//True copy//

P.A.to Judge