

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.174 of 2014 (R)

OP(GW) NO.529/2013 of FAMILY COURT,MAVELIKKARA.

PETITIONER/RESPONDENT NO.1:

K.V.SAJIKUMAR,S/O.VASUDEVAN,
SOFTWARE TECHINICIAN,VASUDEVALAYAM,
ELIPPAKULAM MURI & POST,VALLIKUNNAM VILLAGE,
MAELIKKARA TALUK.

BY ADV.SRI.C.CHANDRASEKHARAN

RESPONDENT'S/PETITIONER 1 AND 2:

1. RAGHAVAN MOHANAN,S/O.RAGHAVAN,
THATTASSERI HOUSE,PAYIKKUZHI KARA,
OACHIRA VILLAGE,KOLLAM DISTRICT-691001.
2. USHA,W/O.MOHANAN,THATTASSERI HOUSE,
PAYIKKUZHI KARA,OACHIRA VILLAGE,
KOLLAM DISTRICT-691001.

R1,R2 BY ADV.SRI.B.KRISHNA MANI.

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

pk

OP (FC).No.174 of 2014 (R)

APPENDIX

PETITIONER'S EXHIBITS:

- P1. TRUE COPY OF THE ORDER DATED 22-8-2012 IN WPC NO.20062/2012.**
- P2. TRUE COPY OF THE JUDGMENT DATED 6-9-12 IN WPC NO.20062/2012.**
- P3. TRUE COPY OF THE PETITION OP(GW) FILED BY THE RESPONDENTS
BEFORE THE FAMILY COURT, ALAPPUZHA.**
- P4. TRUE COPY OF THE COMPROMISE IN OP(GW) 445/13 FILED BEFORE THE
FAMILY COURT, MAVELIKKARA.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

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

OP(FC) .No. 174 of 2014

Dated this the 25th day of June, 2015

JUDGMENT

Abdul Rehim,J.

This writ petition is filed under Article 227 of the Constitution of India, seeking relief to the extent of setting aside Ext.P4 compromise arrived between the petitioner and respondents 1 and 2, and also seeking direction for restraining the Family Court, Alappuzha from proceeding with Ext.P3 petition.

2. Averments in the writ petition is that, petitioner is the father of a minor child viz. Adityan @ Unnikrishnan aged 2 years. Wife of the petitioner passed away on 30.5.2012. The respondents, who are the maternal grand parents of the child have approached the Family Court, Kollam seeking custody and guardianship of the minor child. The Family Court at Kollam returned the petition finding lack

of jurisdiction. Thereafter the petition was filed before the Family Court, Alappuzha, which was again transferred to Family Court, Mavelikkara as OP(G&W) 445/2013. Ext. P3 is the copy of the original petition filed before the Family Court. It is mentioned that the petitioner as well as the respondents have entered into a compromise with respect to all the disputes existing, including the issue relating to custody of the minor child. Ext.P4 is the compromise agreement produced before the Family Court, Mavelikkara in OP(G&W) 445/2013. Contention of the petitioner is that, the compromise arrived as per Ext.P4 is unsustainable in the eye of law because it includes terms with respect to appropriation of the properties belonging to the minor child. It is also contended that OP(G&W)445/2013 is not maintainable before the Family Court under provisions of the Guardians and Wards Act and the District Court alone is having jurisdiction in the matter.

3. We notice that Ext.P4 is a compromise petition filed

before the Family Court, Mavelikkara in OP (G&W) 445/2013 incorporating terms and conditions of the compromise arrived between the parties in that case. Both the parties to this writ petition have signed the terms of the compromise. On a perusal of the compromise it is revealed that all the disputes in relation to the matrimony between the petitioner and his deceased wife, existing between the petitioner and the respondents were settled and compromised. Counsel appearing on both sides submitted that, they were informed that the case which was pending before the Family Court, Mavelikkara was disposed of on the basis of the above said compromise.

4. Learned counsel for the petitioner raised contention that the compromise can be valid only with respect to arrangement of custody of the minor child and rest of the terms relating to the appropriation of property is not sustainable. If the petitioner has got any case regarding unsustainability of the compromise arrived, it is for him to

seek remedy to review or modification of the order of the Family Court or to challenge the same in appropriate proceedings, to the extent permissible under law. However, this court is not at all convinced that there exists any grounds for interference with Exts.P4 compromise by invoking jurisdiction vested under Article 227 of the Constitution.

Hence the writ petition is hereby dismissed by reserving liberty to the petitioner to seek appropriate remedy in appropriate proceedings.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

