

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

OP (FC).No. 175 of 2014 (R)

I.A.NO.987/13 IN O.P.NO.421/13 OF THE FAMILY COURT, CHAVARA

PETITIONER(S) :

ZACHARIA THOMAS, AGED 62 YEARS
S/O.THOMAS, PEACE COTTAGE, ARINALLOOR
THEVALKKARA, KOLLAM, PIN-690 524

BY ADV. SRI.AJAYA KUMAR. G

RESPONDENT(S) :

PRABHA JOSE, AGED 26 YEARS,
W/O.JOSE PRATHAP, PRABHA BHAVANAM, KOIVILA
KOLLAM DIST. PIN-691590.

R1 BY ADV. SRI.P.B.SAHASRANAMAN

R1 BY ADV. SRI.T.S.HARIKUMAR

R1 BY ADV. SRI.K.JAGADEESH

R1 BY ADV. SRI.RAAJESH S.SUBRAHMANIAN

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 175 of 2014 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 - TRUE COPY OF THE ORIGINAL PETITION IN O.P.335/2012 FILED
BEFORE THE FAMILY COURT, KOLLAM AND RENUMBERED AS O.P.421/2013 NOW
PENDING BEFORE THE FAMILY COURT, CHAVARA

EXT.P2 - TRUE COPY OF THE POWER OF ATTORNEY EXECUTED BY THE
PETITIONER'S SON IN HIS FAVOUR DT.02-05-2012

EXT.P3 - TRUE COPY OF THE I.A.987/2013 IN OP.421/2013 BEFORE THE
FAMILY COURT CHAVARA

EXT.P4 - TRUE COPY OF THE ORDER IN IA.987/2013 IN OP.421/2013 BEFORE
THE FAMILY COURT, CHAVARA.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

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

O.P.(F.C.)No.175 of 2014

Dated this the 8th day of January, 2015.

J U D G M E N T

Mohanana, J.

The petitioner herein, who is the power of attorney holder of the petitioner in the court below, moved I.A.No.987/13 dated 19.12.2013 in O.P.No.421/13 pending before the Family court, Chavara, with a prayer to grant time upto 2014 December for the appearance of the said petitioner in that court, since the employer of the petitioner could grant leave only during that time, so as to enable him to appear before the court below, as he is working in abroad. The court below by Ext.P4 order dismissed the said petition. It is against Ext.P4 order, the present original petition is preferred under Article 227 of the Constitution of India.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. It appears that series of litigations are pending

between the husband and wife before the Family court, Chavara. The wife of the petitioner initially approached the Family court, Kollam, seeking various reliefs against her husband and when the Family court at Chavara was established, those matters were transferred to that court which are now numbered and pending as O.P.Nos.188/13 and 537/13. The petitioner's son had also preferred O.P.No.335/12 for restitution of conjugal rights. Though the parties approached the Family court, during the year 2012, the matters are still pending. The learned counsel appearing for the petitioner submitted that the employer of the husband, who is the petitioner in the court below, has sanctioned leave and he can come over Kerala during the month of June and he can co-operate with the court proceedings. On the other hand, the learned counsel for the respondent submitted the prayer in Ext.P3 petition was for a posting of the case during the month of December 2014 and that prayer has now virtually become infructuous.

4. Having regard to the facts and circumstances involved in the case, we are of the view that, this original

petition can be disposed of directing the petitioner to appear before the Family court, Chavara, during the month of June, so that the court can proceed with the trial of O.P.No.421/13 in accordance with the procedure.

Accordingly, the original petition is disposed of directing the Family court, Chavara, to post O.P.No.421/13 on any date during the month of May 2015 and after ascertaining the exact date on which the petitioner can appear before that court during the month of June, a posting shall be given, on which date the petitioner shall appear and both the parties are directed to co-operate with the proceedings of the court below. It is made clear that the court below can proceed with O.P.Nos.188 and 537 of 2013 in accordance with its roster.

Sd/-

V.K.MOHANAN, Judge

Sd/-

P.D.RAJAN, Judge

ami/

//True copy//

P.A.to Judge