

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

OP (FC).No. 498 of 2014 (R)

AGAINST THE ORDER OF THE FAMILY COURT,ERNAKULAM IN
IA.NO.4004/2014 IN OP.NO.799/2013.

PETITIONER(S)/PETITIONER :

JUBY AGED 37 YEARS
S/O. KUTTAPPAN, CHAMAKKALA HOUSE, PUTHUMANAKKARA
KOMBANADU VILLAGE, KUNNATHUNADU TALUK, PERUMBAVOOR.

BY ADVS.SRI.K.C.CHARLES
SRI.M.POLY MATHAI
SRI.VIMAL K.CHARLES
SMT.A.T.RENJU

RESPONDENT(S)/RESPONDENT :

VISWANATHAN, AGED 39 YEARS
S/O. APPU, PURAPPAYIL HOUSE, PURAYAR KARAYIL
DESOM P.O., ALUVA.

R1 BY ADV. SMT.VALSAMMA KURIAN JOSE

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP (FC).No. 498 of 2014 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE OP NO.799/2013 FILED BY THE PETITIONER
BEFORE THE LEARNED FAMILY COURT, ERNAKULAM.

P2 : COPY OF THE IA NO.4004/2013 IN OP NO.799/2013 FILED BY
THE PETITIONER HEREIN FOR INTERIM MAINTENANCE AND
LITIGATION EXPENSES AGAINST THE RESPONDENT HEREIN.

P3 : COPY OF THE OBJECTION FILED BY THE RESPONDENT HEREIN
IA NO.4004/2013 IN OP NO.799/2013.

P4 : COPY OF THE ORDER DTD.26.3.2014 IN IA NO.4004/2013 IN
OP NO.799/2013.

RESPONDENT(S) ' EXHIBITS

EXT.R1. TRUE COPY OF AGREEMENT DT. 23.8.2009 EXECUTED BY
THE PETITIONER AND RESPONDENT.

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

OP(FC) .No. 498 of 2014

Dated this the 3rd day of July, 2015

JUDGMENT

K.Ramakrishnan,J.

This petition is filed by the petitioner challenging Ext.P4 order passed by the Family Court invoking jurisdiction under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner filed OP.No.799/2013 before the Family Court for past maintenance and she filed IA.No.4004/2013 seeking interim maintenance under section 24 of the Hindu Marriage Act alleging that from June, 2009 onwards the respondent had deserted her and she has no income to maintain. The respondent appeared and filed counter. The court below dismissed the application by the impugned Ext.P4 order.

3. Heard both sides.

4. On going through the reasoning given by the court below for rejecting the application, we feel that there is no merit

in the application. Further it appears that earlier an application was filed and that petition was dismissed on similar grounds. The court below found that there is no change of circumstances to disprove the observation made earlier. Counsel submitted that subsequently proceedings were initiated under the Protection of Woman from Domestic Violence Act, 2005 and the Magistrate Court has granted interim maintenance. So in view of the subsequent circumstances, we feel that there is nothing to interfere with the order passed by the court below. Considering the fact that the matter is of the year 2013, the Family Court is directed to take earnest efforts to expedite the disposal of the case itself at the earliest.

With the above direction the OP(FC) is dismissed. Communicate the order to the court below at the earliest.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

