

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

OP (FC).No. 609 of 2014 (R)

PETITIONER/PETITIONER/JUDGMENT DEBTOR:

P.R.GOPAL KUMAR, AGED 44 YEARS,
S/O RADHAKRISHNA PILLAI, MAYA SADANAM,
NADUVILAKKARA, THEVALAKARA P.O.PIN- 690524, KOLLAM.

BY ADV. SMT.MEREENA J. JOSEPH

RESPONDENT/RESPONDENT/DECREE HOLDER:

SREEJA S.NAIR, AGED 40 YEARS,
D/O. SREEDHARAN PILLAI, CHERUPULICKAL VEEDU,
NEDUMON MURI, EZHAMKULAM VILLAGE, ADOOR TALUK,
PATHANAMTHITTA-689 645.

BY ADV. SRI.KALEESWARAM RAJ

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC) .No. 609 of 2014 (R)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE PETITION IN E.A.NO.156/2014 IN
E.P.NO.30/2012 IN O.P.(O.S) NO.988/2005 TO RECALL THE WARRANT FILED
BEFORE THE FAMILY COURT, KOLLAM.

EXHIBIT P2: TRUE COPY OF THE COUNTER FILED BY THE RESPONDENT TO EXHIBIT
P1 DATED 11.12.2014.

RESPONDENT'S EXHIBITS:NIL

/TRUE COPY/

P.S TO JUDGE

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

.....
O.P.(F.C)No.609 of 2014
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Dated this the 16th day of June, 2015.

JUDGMENT

Ramakrishnan, J:

The judgment debtor in E.P.No.30/2012 on the file of the Family Court, Kollam has filed this petition challenging the order passed in E.A.No.156/2014 invoking the supervisory jurisdiction under Article 227 of the Constitution of India.

2. It is alleged in the petition that petitioner is the judgment debtor in EP 30/2012 in OP(OS)No.988/2005 on the file of the Family Court, Kollam. The original petition was filed by the respondent seeking several reliefs including return of gold ornaments, money etc and that original petition was decreed in part, against which the petitioner filed Mat.A.36/2010 before this Court. This Court as a condition for staying the execution, directed the petitioner to deposit Rs. One lakh within a particular time. But, he could not deposit the amount. The decree holder earlier filed execution petition before the Family Court, Alappuzha as E.P.63/2011 which was later transferred to Family Court, Kollam where it was

renumbered as E.P.No.30/12. According to the petitioner, he was not served with notice in any of the proceedings and the Family Court, Kollam had issued a warrant against him since he did not appear. The petitioner appeared thereafter and filed E.A.No.156/2015 to recall the warrant on the ground that Family Court, Kollam has no jurisdiction over the said case and it is the Family Court, Chavara that has got jurisdiction and on further ground that he was not served with any notice. The Family Court without considering the contentions raised dismissed the application. Aggrieved by the same this petition has been filed by the petitioner.

3. Heard both sides.

4. This Court by order dated 26.12.2014 directed the petitioner to deposit rupees one lakh as a condition for staying the execution proceedings and that direction was complied with. The respondent appeared and filed I.A.No.7267/2015 seeking direction to the Family Court to release the amount of rupees one lakh deposited to the petitioner in the lower court. Considering the fact that Mat. Appeal is pending and even in the

appeal as a condition for staying the proceedings a direction was given to deposit rupees one lakh and that was not deposited within time, which resulted in proceeding with the execution proceedings by the Family Court and now as per the orders of this Court, the petitioner had deposited that amount, we feel that compliance of the direction to deposit rupees one lakh by this Court in this proceedings can be treated as extension of time for depositing the amount as ordered by this Court in Mat.A.No. 36/2010 and on that basis, further proceedings in E.P.No.30/2012 in O.P.(OS)No. 988/05 on the file of the Family Court, Kollam is directed to be kept in abeyance till the disposal of Mat.A.No.36/2010 pending before this Court. The amount of rupees one lakh deposited by the petitioner herein is permitted to be withdrawn by the respondent, who is the decree holder in the lower court, on condition of executing an undertaking before the court below that in case the appeal is allowed in favour of the petitioner herein, she will redeposit the amount or repay the amount to the petitioner herein.

With the above directions and observations this original petition is disposed of.

Communicate a copy of this judgment to the concerned court at the earliest.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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