

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 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C) .No. 6133 of 2008 (S)

AGAINST THE ORDER IN UNNUMBERED OP OF 2007 of FAMILY COURT, KOZHIKODE
DATED 12-11-2007

PETITIONER:

SATHEESH.G.P., S/O.LATE KUMARAN,
AGED 34 YEARS, RESIDING AT ORAVUPARAMBATH
POST PADIRIPPATTA, KAKKATTIL, VATAKARA TALUK
KOZHIKODE DISTRICT, KERALA STATE.

BY ADVS.SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENT:

NISHI.V.K., D/O.CHANDRAN V.K.,
AGED 27 YEARS, NISHALAYAM, JANATHA ROAD
PUDUPPANAM, VATAKARA TALUK, KOZHIKODE DISTRICT
KERALA STATE.

BY ADV. SRI SEBASTIAN CEMPAPPILLY AMICUS CURIAE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-
07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

.....
W.P.(C).No.6133 of 2008
.....

Dated this the 9th day of July, 2015.

JUDGMENT

Abdul Rehim, J:

The petitioner is approaching this court seeking to invoke the jurisdiction vested under Article 227 of the Constitution of India for issuing directions to the Family Court, Kozhikode to entertain Exts.P1 and P3 petitions and to dispose of those petitions under relevant provisions of the Hindu Marriages Act.

2. Ext.P1 is a petition filed by the petitioner before the Family Court, Kozhikode seeking for dissolution of the marriage based on mutual consent under Section 13 (B) of the Hindu Marriages Act. Along with Ext.P1 petition, the petitioner has also filed Ext.P3 application supported by Ext.P2 affidavit seeking permission to entertain Ext.P1 petition before lapse of one year period by invoking Section 14(1), on the premises that there exists special context of causing exceptional hardships to the petitioner. It is stated that the Family Court, is

not entertaining Ext.P3 application and insisting that Ext.P1 petition can be entertained only after one year of the marriage. Contention of the petitioner is that, provisions contained under Section 13(B), which insists that an application for dissolution of marriage on mutual consent can be filed only if the parties are living separately for a period of one year or more, is subject to provisions contained under Section 14(1) of the Hindu Marriages Act. Therefore, a direction as mentioned above is sought for, for entertaining the petitions filed for dissolution of marriage on mutual consent, even before expiry of the one year period.

3. There is no representation for the petitioner when the case is called up for consideration on today.

4. We notice that the writ petition was filed as early as in February, 2008. Under all probabilities the parties might have pursued Ext.P1 petition before the Family Court on the expiry of the statutory period of one year. There is every chance that the parties might have obtained relief from the Family Court by this time.

Under the above mentioned circumstances, we are of the

opinion that the issue agitated in this writ petition no more survives for consideration.

Therefore this writ petition is disposed of as infructuous.

Sd/-

C.K.ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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