

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 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 22111 of 2007 (S)

AGAINST THE ORDER/JUDGMENT IN OP 712/2004 of FAMILY COURT, KOTTAYAM
DATED 00-00-0000

PETITIONER(S):

M.M.JOSEPH, S/O.JOSEPH, AGED 41,
MADASSERIL VEETIL, KOZHAKARA, KURAVILANGAD VILLAGE
MEENACHIL TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.M.TRIPTEN

RESPONDENT(S):

ROSAMMA JOSEPH, W/O.JOSEPH, AGED 35,
PALLILLURATHU VEETIL, MONIPPALLY VILLAGE
MARANGATTUPALLY PANCHAYATH, KOTTAYAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-
07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

WP(C) .No. 22111 of 2007

Dated this the 30th day of July, 2015

JUDGMENT

The petitioner has filed this writ petition challenging pendency of EP.No.46/2006 in OP.No.712/2004 on the file of the Family court Ettumanoor under Article 227 of the Constitution of India.

2. The main grievance of the petitioner in the writ petition was that an exparte decree was passed in OP.712/2004 since he could not appear due to his illness. The petitioner filed IA.No.1728/2006 to set aside the exparte order and that application was dismissed for default and he filed another IA.1786/2007 to restore the application dismissed for default and that application is pending. In the meantime the decree holder filed EP 46/2006 before the same court for execution of the exparte decree obtained against him. No notice has been issued to the judgment debtor in the execution petition as he was set exparte. Now the case is posted to 19.7.2007 for

proclamation of the sale. So the petitioner has no other remedy except to approach this court seeking the following relief:

i) to issue a writ of certiorari or other writ, direction or order to the Family Court, Ettumanoor calling for the entire records in OP.No.712/2004 and in EP. No.46/2006.

ii) to direct the Family Court, Ettumanoor to dispose the pending IA.No.1786/2007 on merits as early as possible.

iii) such other reliefs this Hon'ble Court deems fit and proper to grant in the facts and circumstances of the case.

3. Considering the fact that the case is of the year 2007 and there was no representation when we took up the matter , we called for the report from the Family Court, Ettumanoor regarding the present stage of the case and a report has been sent in which it was mentioned that the matter has been settled between the parties and they started living together and the attachment order was vacated as per order in EA.No. 127/2007. Since the entire dispute has been settled, execution petition was closed as the parties were reunited and decided to continue their

family life. So under the circumstances we feel that nothing survives in the writ petition as execution petition itself has been closed and the prayer in the writ petition has become infructuous. We record the report of the Family Court and dismiss the writ petition as became infructuous.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

