IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

MONDAY, THE 22ND DAY OF JULY 2024 / 31ST ASHADHA, 1946

OP (FC) NO. 464 OF 2024

AGAINST THE ORDER DATED 05.06.2024 IN IA 10/2024 IN OP NO.7 OF 2023 OF FAMILY COURT, NEYYATTINKARA

PETITIONER:

VINOD CHANDRAN.R.S., AGED 47 YEARS
S/O K. RAMACHANDRAN NADAR, ARJUNA SADANAM,
MALLOOR, MULLOOR.P.O., VIZHINJAM,
THIRUVANANTHAPURAM, PIN – 695521

BY ADV K.RAJESH KANNAN

RESPONDENT:

KAVITHA.S.S., D/O SUDHAKARAN, KAVITHA NILAYAM,
KIDARAKUZHI, VENGANOOR.P.O., THIRUVANANTHAPURAM,
PIN – 695523

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 22.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Devan Ramachandran, J.

The petitioner impugns Ext.P7 order of the learned Family Court, Neyyattinkara, on certain unusual grounds.

2. The petitioner asserts that he had produced all documents to be marked in evidence, along with the proof affidavit, before the learned Advocate Commissioner appointed by the learned Family Court; but that he is not taking any action thereafter. He says that he, therefore, preferred Ext.P6 application; but that it has been disposed of through Ext.P7, saying that he must produce all documents and lead evidence, without delay and that if he is to seek any adjournment, he would be mulcted with cost of Rs.500/- each for such.

3. Sri.K.Rajesh Kannan – learned counsel for the petitioner, argued that Ext.P7 imposes impossible conditions on his client; and that the order, that he will be mulcted with costs, can only be seen to be a prejudged one. He reiterated that his client had produced all documents, which he intended to mark in evidence, before the learned Advocate Commissioner and that the same was

delivered to him, along with his proof affidavit, consequent to which, his deposition had been recorded.

4. As we have indicated in the opening paragraph of this judgment, the afore assertions are rather incredulous because, normally, all evidence to be marked in evidence, as also the proof affidavit, are to be filed in Court; and the learned Advocate Commissioner can only record the testimony of the parties, under its control. However, what we are told by the learned counsel for the petitioner is that his client had delivered all documents directly to the Advocate Commissioner, along with his proof affidavit, but that he has not produced the same before the learned Trial Court, in spite of the testimony of parties having been subsequently recorded.

5. It is needless to say that, what has been presented before us is not something that we would normally expect. As we have indicated above, the documents and proof affidavit ought to have been filed in Court and not before the Advocate Commissioner. Obviously, therefore, this is a matter that the learned Family Court must look into very intently, after causing

necessary enquiries. We do not, however, intend to intervene any further at this stage, but leave it to the learned Family Court to ensure that due processes and the integrity of the same, are adequately protected and ensured.

6. That being said, though we cannot find fault with the learned Family Court in issuing Ext.P7, which appears to be with the objective of not allowing parties to take unnecessary adjournments, the order therein that the petitioner will have to pay Rs.500/- for each adjournment, does not appear to be reasonable.

In the afore circumstances, we dispose of this Original Petition, directing the learned Family Court, Neyyattinkara, to take into account the afore factors and dispose of the matter as per law, following due procedure and offering necessary opportunities to both sides.

As far as the order in Ext.P7, that the petitioner will be liable to a cost of Rs.500/- for each adjournment to be sought by him, is vacated; but leaving liberty to the learned Family Court to take a decision on granting such adjournments, as per law,

adverting to the circumstances at the relevant time.

Sd/-
DEVAN RAMACHANDRAN
JUDGE

Sd/-
M.B. SNEHALATHA
JUDGE

RR

APPENDIX OF OP (FC) 464/2024

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE O.P. NO.1153/2015 DATED 16.7.2015 ON THE FILE OF HON'BLE FAMILY COURT, THIRUVANANTHAPURAM
Exhibit P2	TRUE COPY OF THE OBJECTION DATED 16.4.2017 IN O.P. NO.1153/2015 ON THE FILE OF HON'BLE FAMILY COURT, THIRUVANANTHAPURAM
Exhibit P3	TRUE COPY OF THE O.P. NO.770/2015 DATED 18.5.2015 ON THE FILE OF HON'BLE FAMILY COURT, NEYYATTINKARA
Exhibit P4	TRUE COPY OF THE COUNTER AFFIDAVIT AND THE COUNTERCLAIM DATED 5.1.2016 IN O.P. NO.770/2015 ON THE FILE OF FAMILY COURT, NEYYATTINKARA
Exhibit P5	TRUE COPY OF THE CHIEF AFFIDAVIT DATED 12.2.2020 IN O.P. NO.1153/2015 ON THE FILE OF FAMILY COURT, THIRUVANANTHAPURAM
Exhibit P6	TRUE COPY OF THE I.A. NO.10/2024 IN O.P. NO.7/2023 ON THE FILE OF THE FAMILY COURT, NEYYATTINKARA DATED 5.6.2024
Exhibit P7	TRUE COPY OF THE ORDER IN I.A. NO.10/2024 IN O.P. NO.7/2023 DATED 5.6.2024 PASSED BY THE FAMILY COURT, NEYYATTINKARA