



2025:KER:28503

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947

OP (FC) NO. 156 OF 2025

ORDER DATED 22.01.2025 IN IA NO.1/2024 IN

OP NO.281 OF 2022, FAMILY COURT, VADAKARA

PETITIONER/PETITIONER:

DEEPTHI AMBALI, AGED 37 YEARS,
D/O AMBALI DIVAKARAN, SURABHI NIVAS,
PATIYAT KUNNU, KADALUNDI P.O,
KOZHIKODE, PIN - 673302.

BY ADVS. P.JERIL BABU
SRINATH GIRISH

RESPONDENTS/RESPONDENTS:

- 1 NISHANTH.M, AGED 43 YEARS,
S/O VENUNATHAN, MANGIL HOUSE,
PUTHUPPANAM AMSOM, NADAKKUTHAZHA DESOM,
VATAKARA, KOZHIKODE., PIN - 673105.
- 2 GEETAHA, AGED 70 YEARS, W/O VENUNATHAN,
MANGIL HOUSE, PUTHUPANNAM AMSOM,
NADKKUIHAZHA DESOM, VATAKARA, KOZHIKODE.,
PIN - 673105



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BY ADVS.

DHEERAJ KRISHNAN PEROT

FIDHA NAVAS (K/002215/2022)

ARCHITA BAIJU PANICKER (K/004687/2024)

AMARDEV M.G. (K/004227/2024)

LIBA L. BENSER (K/001228/2025)

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 03.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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JUDGMENT

Devan Ramachandran, J.

The petitioner impugns Ext.P5 order of the learned Family Court, Vadakara, which dismissed her application for amendment, namely IA No.1/2024 in OP No.281/2022.

2. Admittedly, the Original Petition was filed by the petitioner against the respondents seeking the return of gold and certain sums of money; and that she had earlier filed IA No.1/2023, for amending her pleadings, which has been allowed.

3. Thereupon, she filed IA No.1/2024, seeking that the schedule of ornaments also be allowed to be amended and to strike off that portion of the amendments which were allowed earlier through IA No.1/2023; but which has now



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been dismissed by the learned Family Court, saying that the petitioner has acted with "lack of diligence" since she ought to have sought all amendments at the time when IA No.1/2023 had been filed.

4. Sri.P.Jeril Babu - learned counsel for the petitioner, contended that the findings of the learned Family Court in the impugned order are untenable because, an application for amendment under the provisions of Order VI, Rule 17 of the Code of Civil Procedure (CPC), can be preferred, so as to ensure the accuracy of the facts, at any point of time until the trial commences. He argued that, in this case, the trial has not yet begun; and therefore, that, merely because his client had earlier filed IA No.1/2023 - which, however, did not carry the facts as are necessary to be pleaded - she



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cannot now be precluded from filing another application, to ensure that the relevant facts and figures are on record. He thus prayed that this Original Petition be allowed.

5. In response, however, Sri.Dheeraj Krishnan Perot - learned counsel for the respondents, submitted that the petitioner has been amending her pleadings one after the other; and that what is relevant in the present attempt is that she is making modifications to the schedule of gold, though she never sought so, while IA No.1/2023 was filed. He pointed out that, in fact, through the present application, she is even resiling from the amendments that she herself earlier sought through IA No.1/2023; and hence that the learned Family Court cannot be found in error in having issued Ext.P5 order. He thus prayed that this Original Petition be



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dismissed.

6. We have examined the impugned order on the touchstone of the rival submissions of the parties and the materials available on record.

7. It is without doubt - as expressly admitted - that the petitioner had earlier approached the learned Family Court seeking amendment of her pleadings, through IA No.1/2023, which had been allowed.

8. The question, therefore, is whether she is precluded from filing a fresh application to resile from the amendments earlier made, and incorporating certain changes to the schedule of gold.

9. Going by the provisions of Order VI, Rule 17 of the CPC, applications for amendments can be filed by the parties, subject to the proviso therein, namely that it be done before



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the trial commences. There is no case for either of the sides that the trial has commenced; and hence, the only other issue relevant for our consideration is, if IA No.1/2024 could have been dismissed by the learned Family Court solely because IA No.1/2023 had been earlier allowed.

10. We are afraid that we cannot find favour with the findings of the learned Family Court in Ext.P5 because, even when an earlier application for amendment may have been allowed, we see no reason why a subsequent application should not be considered on its merits, or even allowed. This is because, if there had been mistakes while causing amendments through the earlier application, it can certainly be rectified through a subsequent one, under the provisions of Order VI, Rule 17 of the CPC, it



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being not forensically prohibited.

11. That apart, it is well settled that applications for amendments require to be construed liberally and that the specified criteria for not allowing them will have to be established, when the Courts are to dismiss them.

12. In the case at hand, the petitioner only says that the accuracy of the claim is sought to be cemented by the amendments made; and that what was sought and allowed in IA No.1/2023 was not apposite. Merely because IA No.1/2023 had been earlier allowed, we cannot find favour with the findings of the learned Family Court, that the petitioner had not acted diligently.

13. Further, the respondents have no case that the amendments cause them any prejudice and



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this is crucial since, as said above, it only seeks to clarify the facts pleaded and to correct them. The merits of this, however, is to be decided by the learned Court after trial.

In the afore circumstances, we order this Original Petition and set aside Ext.P5; consequently, allowing IA No.1/2024 in OP No.281/2022.

Resultantly, the learned Family Court will proceed with the matter as per law without any avoidable delay.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

M.B.SNEHALATHA

JUDGE

akv



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APPENDIX OF OP (FC) 156/2025

PETITIONER EXHIBITS

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| EXHIBIT P1 | A TRUE COPY OF THE PETITION IN O.P. NO. 281/2022 BEFORE THE FAMILY COURT, VATAKARA, DATED 16-03-2022 |
| EXHIBIT P2 | A TRUE COPY OF THE COUNTER IN O.P. NO. 281/2022 BEFORE THE FAMILY COURT, VATAKARA, DATED 06-08-2022 |
| EXHIBIT P3 | A TRUE COPY OF THE AFFIDAVIT DATED FEBRUARY 2023 ACCOMPANYING I.A 1/ 2023 IN O.P. 281/2022 ON THE FILE OF THE FAMILY COURT, VATAKARA |
| EXHIBIT P4 | A TRUE COPY OF THE AFFIDAVIT AND PETITION DATED NOVEMBER 2024 IN I.A 1/ 2024 IN O.P. 281/2022 ON THE FILE OF THE FAMILY COURT, VATAKARA |
| EXHIBIT P5 | A TRUE COPY OF THE ORDER DATED 22.01.2025 IN I.A 1/2024 IN O.P. 281/2022 ON THE FILE OF THE FAMILY COURT, VATAKARA |