

Latha Vs. Vijayadas

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SooperKanoon Citation : sooperkanoon.com/1012902

Court : Kerala

Decided On : Feb-01-2013

Judge : Honourable Mr.Justice Pius C.Kuriakose

Appellant : Latha

Respondent : Vijayadas

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE PIUS C.KURIAKOSE & THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM FRIDAY, THE 1ST DAY OF FEBRUARY 2013 12TH MAGHA 193 Mat.Appeal.No. 588 of 2011 () ----- AGAINST THE JUDGMENT IN OP.1459/2008 of FAMILY COURT, NEDUMANGAD DATED 18 03-2011 APPELLANT(S)/PETITIONERS: ----- 1. LATHA, D/O. KAMALAMMA, AGED 42 RES. AT HERMON COTTAGE,KOLLODE,KULATHUMMAL VILLAGE,KATTAKKADA.

2. KIRAN BIJU, AGED 2 YEARS, S/O.VIJAYADAS,RES. AT HERMON COTTAGE,KOLLODE KULATHUMMAL VILLAGE,KATTAKKADA.

3. PRIYANKA BIJU, AGED 20 D/O. LATHA,RES. AT HERMON COTTAGE,KOLLODE KULATHUMMAL VILLAGE,KATTAKKADA. BY ADVS.SRI.M.RAMASWAMY PILLAI SRI.P.M.JOSEPH RESPONDENT(S)/RESPONDENT: ----- VIJAYADAS, S/O. THANKAYYAN,

AGED 51 RES. AT BIJU BHAVAN,KULATHUMMAL VILLAGE,KOLLODE KUVAKUZHI,KATTAKKADA.P.O.-695572. THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 01-02- 2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: PIUS.C.KURIAKOSE & C.K.ABDUL RAHIM,JJ.

----- Mat.Appeal No.588 of 2011
----- Dated 1st February, 2013 JUDGMENT
Pius.C.Kuriakose,J.

Under challenge in this appeal preferred by the appellants who are mother and children is the judgment and decree of Family Court, Nedumangad dismissing the O.P filed by them before that Court for maintenance, recovery of money and for return of the ornaments. Even though the respondent husband of the first appellant and father of respondents 2 and 3 was served with notice, he has not chosen to enter appearance before this Court for resisting this appeal. Sri.M.Ramaswamy Pillai, learned counsel appearing for the appellants assailed the impugned judgment of the Family Court on various grounds in this appeal. The submissions of Sri.Ramaswamy Pillai are not resisted by anybody at the Bar. The learned counsel only wants the impugned judgment and Mat.A.588/11 2 decree be set aside and the O.P will be remanded to the Family Court for fresh decision on merits. We feel that the above request of the learned counsel can be accepted. Accordingly, we set aside the judgment and decree in O.P.1459/2008 and remand to the Family Court, Nedumangad. The Family Court, Nedumangad is directed to dispose of the O.P in accordance with law. As the statutory procedures like counselling etc. are already over, it is not necessary to undertake such procedures further. The case shall be continued from the stage at which the impugned judgment was passed i.e, the stage of evidence. Both sides should be permitted to adduce whatever evidence they want to adduce. Learned Judge, Family Court should take a decision in the case evaluating the evidence which comes on record. The revised judgment pursuant to this judgment shall be passed as early as possible, at any rate, within four months of receiving a copy of this judgment. PIUS.C.KURIAKOSE, JUDGE. C.K.ABDUL RAHIM, JUDGE. uj.