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Ratheesh Vs. Dhanya

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Court : Kerala

Decided On : Jan-29-2013

Judge : Honourable Mr.Justice Pius C.Kuriakose

Appellant : Ratheesh

Respondent : Dhanya

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE PIUS C.KURIAKOSE & THE HON'BLE MR. JUSTICE P.D.RAJAN TUESDAY, THE 29TH DAY OF JANUARY 2013 9TH MAGHA 193 OP (FC).No. 373 of 2013 (R) ---------- (AGAINST THE CMP (EX) 651/2012 IN MC 447/09 ON THE FILE OF THE FC, MALAPPURAM) ---------- PETITIONER/RESPONDENT : ---------- RATHEESH M.P. AGED 2 YEARS S/O. AYYAPPAN,MANGAR PUNCHIRIYIL HOUSE,KALATHUPADI PULPATTA P.O.,MANJERI VIA,MALAPPURAM. BY ADVS.SRI.K.MOHANAKANNAN SMT.A.R.PRAVITHA RESPONDENTS/PETITIONERS : ---------- 1. DHANYA D/O. RAVEENDRAN NATHAN,VADAKKAYIL HOUSE,MANJERI P.O. MALAPPURAM DISTRICT-676121 2. THEERTHA (MINOR) D/O. RATHEESH,VADAKKAYIL HOUSE,MANJERI P.O. MALAPPURAM DISTRICT-676121. (REPRESENTED BY THE 1ST RESPONDENT GURDIAN HER MOTHER). THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 29-01-2013, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING: OP (FC).No. 373 of 2013 (R) APPENDIX PETITIONER(S) EXHIBITS P1 : COPY OF THE JOINT STATEMENT AND ORDER IN MC NO.447/2009. P2 : COPY OF THE APPLICATION DTD.29.11.2009 FILED BY THE 1ST RESPONDENT. P3 : COPIES OF THE COUNTER AFFIDAVIT FILED BY THE PETITIONER AND A CERTIFICATE FURNISHED BY THE ASST. LABOUR OFFICER, MALAPPURAM, DTD.12.9.2012. P4 : COPY OF THE MC 648/2012 BEFORE THE FC, MALAPPURAM. P5 : COPY OF THE COUNTER AFFIDAVIT FILED BY THE 1ST RESPONDENT. P6 : COPY OF THE COURT DAIRY EXTRACT IN CRL.EXECUTION PETITION NO.651/2012 IN MC 447/2009. ..... PIUS C. KURIAKOSE & P. D. RAJAN, JJ.

---------- O. P (FC) No.373 of 2013 ---------- Dated this the 29th day of January, 2013 JUDGMENT Pius C. Kuriakose, J This Original Petition under Article 227 is filed by the petitioner who is the husband of the first respondent and father of the second respondent seeking a direction to the Family Court, Malappuram to dispose of MC 648/12 which he has filed before that court for a variation of the order for maintenance already passed by the court in M.C No.447/09. There is a further prayer that till MC.648/12 is disposed of by the Family Court that court may be directed to keep in abeyance coercive process already issued by that court against the petitioner for recovery of the amounts due to the respondents under Ext.P2 execution petition.

2. Having regard to the various grounds raised and the submissions of the learned counsel for the petitioner, we feel O. P (FC) No.373 of 2013 -2- that even without issuing notice to the respondents relief to a certain extent can be given to the petitioner protecting the interest of the respondents also to the same extent. Accordingly we dispose of this OP issuing the following directions.

3. The Family Court, Malappuram is directed to keep in abeyance all coercive process in Ext.P2 execution petition including the execution of the arrest warrant already issued against the petitioner in that execution petition subject to the following conditions:- 4. The petitioner shall pay to the respondents or deposit

before the Family Court for payment to the respondents a sum of ` 20,000/- towards the amounts due to the respondents under the order in M.C.447/09. Once the Family Court finds that there is compliance with the above condition that court will expedite matters in MC.648/12 and dispose of that MC in accordance with law after holding due enquiries at the earliest and at any rate within a month of O. P (FC) No.373 of 2013 -3- noticing compliance by the petitioner of the above condition. Sd/- PIUS C. KURIAKOSE JUDGE Sd/- P. D. RAJAN JUDGE kns/- //TRUE COPY// P.A. TO JUDGE

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