

Ramesh Vs. Mini

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Court : Kerala

Decided On : Jan-09-2014

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Ramesh

Respondent : Mini

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC & THE HONOURABLE MR. JUSTICE P.D.RAJAN THURSDAY, THE 9TH DAY OF JANUARY 2014 19TH POUSHA, 1935 Mat.Appeal.No. 57 of 2011 () ----- AGAINST THE

ORDER

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JUDGMENT

IN OP10282009 of FAMILY COURT, MALAPPURAM DATED 26-08-2010 APPELLANTS/RESPONDENTS: ----- 1. RAMESH, S/O.THANKAMANI, VATTAPARAMBIL HOUSE, THAYYOOR, ERUMAPETTY VELUR VILLAGE, THRISSUR.

2. VISALAKSHI, W/O. THANKAMANI, VATTAPARAMBIL HOUSE, THAYYOOR, ERUMAPETTY VELUR VILLAGE, THRISSUR. BY ADV. SRI.P.SAMSUDIN

RESPONDENT(S)/PETITIONER: ----- MINI,
D/O. CHIRAVALLLOOR KUNHIMON ASARI, P.O.CHERUVALLOOR, PIN-679 580,
PONNANI TALUK NANNAMMUKKU VIA., MALAPPURAM DISTRICT. R,R1 BY
ADV. SRI.K.K.MOHAMED RAVUF THIS MATRIMONIAL APPEAL HAVING BEEN
FINALLY HEARD ON0901-2014, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING: acd ANTONY DOMINIC & P.D. RAJAN, JJ.

----- Mat. Appeal No. 57 of 2011
----- Dated this the 9th day of January, 2014

JUDGMENT

ANTONY DOMINIC,J.

The respondents in O.P.No.1028/2009 on the file of the Family Court, Malappuram are the appellants. The O.P. was filed by the respondent herein, the wife of the 1st appellant, against the appellants, for return of value of 20 sovereigns of gold ornaments being Rs.2,70,000/-, past maintenance for 3 = months from 21.7.2009 at the rate of Rs.4,000/- per month, totalling to Rs.14,666/- from the 1st appellant, the value of 4 sovereigns of gold ornaments being Rs.54,000/- from the 2nd appellant and Rs.75,000/- from appellants 1 and 2.

2. Before the Family Court, the respondent and two other witnesses were examined as Pws 1 to 3 and the appellants were examined as Rws 1 and 2. Exts.A1 to A4 were also marked in evidence.

3. The Family Court, by order dated 26th day of August, Mat. Appeal No.57/11 2 2010, directed the 1st appellant to pay past maintenance at the rate of Rs.4,000/- per month for 3 = months totalling to Rs.14,666/- to the respondent and appellants 1 and 2 jointly and severally were directed to pay value of 20 sovereigns of gold ornaments totalling to Rs.2,70,000/- and Rs.50,000/-. The 2nd appellant was ordered to pay Rs.54,000/- being the value of 4 sovereigns of gold ornaments.

4. We heard the learned counsel for the parties and have also considered the submissions made.

5. The first claim considered by the Family Court was the one for return of the value of 20 sovereigns of gold ornaments. According to the respondent and PW2, the witness examined, at the time of marriage, the respondent had 30 sovereigns of gold ornaments of which 20 sovereigns were entrusted to the 1st appellant, who entrusted the same to the 2nd appellant. The fact that the respondent had 30 sovereigns of gold ornaments at the time of marriage was admitted by RW2 in her evidence. The 1st appellant, who was examined as RW1, also had admitted the genuineness of Exst.A1 series of photographs and A4 C.D. He also stated that he was aware of the ornaments, which were seen in the body of the Mat. Appeal No.57/11 3 respondent, that she had at the time when she came to the matrimonial house. Therefore, the fact that she had 30 sovereigns of gold ornaments is rather an admitted case of the appellants themselves.

6. Insofar as the issue of entrustment of the gold ornaments is concerned, the case of the respondent was that on her arrival in the matrimonial home and soon thereafter, 20 sovereigns of gold ornaments were entrusted to the 1st appellant, who in turn handed over the same to the 2nd appellant.

7. Although this was denied by the 1st appellant, in the evidence of the 2nd appellant, she had stated that it is a usual practice in the areas that the ornaments that are worn by the bride is entrusted to the mother-in-law for safe custody. It is in the light of this and also the consistent case of the respondent and her witness that the Family Court accepted that 20 sovereigns of gold ornaments were entrusted to the appellants and that they are liable to account for the same.

8. As far as the monetary claim of Rs.75,000/- is concerned, the evidence available from Pws 1 and 2 only proved the entrustment of Rs.50,000/- and the Family Court has rightly held that the respondent had proved this claim Mat. Appeal No.57/11 4 also.

9. The past maintenance claimed for 3 = months at the rate of Rs.4,000/- per month is concerned, the evidence before the Family Court shows that the 1st appellant is a Carpenter for several years and that the Family Court found that he was earning at least Rs.500/ per day. It was on that basis that the Family Court awarded Rs.4,000/- per month towards maintenance to the respondent. In such

circumstances, it cannot said to be exorbitant for any reasons.

10. The evidence before the Family Court also proved that the 2nd appellant had taken 4 sovereigns of gold ornaments from the custody of the respondent and on the basis of such evidence this claim of the respondent was also allowed. Therefore, these findings of the Family Court are fully justified and we do not find any reason to disagree with any one of those findings. The Mat. Appeal will stand dismissed. ANTONY DOMINIC, JUDGE P.D. RAJAN, JUDGE. acd Mat. Appeal No.57/11 5 Mat. Appeal No.57/11 6

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