

Sheeja C. Vs. Premanandan

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SooperKanoon Citation : sooperkanoon.com/1158224

Court : Kerala

Decided On : Jul-23-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Sheeja C.

Respondent : Premanandan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN WEDNESDAY, THE 23D DAY OF JULY 2014 1ST SRAVANA, 1936 OP(Crl.).No. 156 of 2014 (Q) ----- MC1552012 of JUDICIAL FIRST CLASS MAGISTRATE COURT - I, KANNUR & CRIMINAL APPEAL 3132013 PENDING BEFORE THE SESSION COURT, THALASSERY ----- PETITIONER/APPELLANT/COMPLAINANT : ----- SHEEJA C., AGED 37 YEARS, W/O.PREMANANDAN, SREE PADAM, ONDEN PARAMBA, KAKKAD, KANNUR-670005. BY ADV. SRI.K.RAJESH SUKUMARAN RESPONDENTS/RESPONDENTS/RESPONDENTS : ----- 1. PREMANANDAN K.V., AGED 41 YEARS, S/O.GOVINDAN NAMBIAR 2 BARGHAVI AMMA W/O.GOVINDAN NAMBIAR.

3. GOVINDAN NAMBIAR⁴ MURALIDHARAN, AGED 37 YEARS, S/O. GOVINDAN NAMBIAR⁵ BHAGYASREE W/O. MURALIDHARAN ALL ARE RESIDING AT SREE PADAM, ONDEN PARAMBA, KAKKAD, KANNUR- 670005. THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 23/07-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BP OP(Crl.).No. 156 of 2014 (Q) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1 : TRUE COPY OF THE COMPLAINT IN MC1552012 FILED BEFORE THE JFCM NO.1, KANNUR. EXHIBIT P2 : TRUE COPY OF THE AFFIDAVIT IN CMP522312 FILED ALONG WITH THE COMPLAINT. EXHIBIT P3 : TRUE COPY OF THE

ORDER

IN CMP522312 DT.23-11-2012 OF JFCM NO.1 KANNUR. EXHIBIT P4 : TRUE COPY OF THE PETITION CMP335713 FILED BY R1 IN CMP522312. EXHIBIT P5 : TRUE COPY OF THE PETITION CMP204013 FILED BY THE R3 IN CMP522312. EXHIBIT P6 : TRUE COPY OF THE COMMON

ORDER

IN CMP204013 AND CMP335713 DT.20-9-13 OF JFCM NO.1 KANNUR. EXHIBIT P7 : CRA3132013 FILED BEFORE THE SESSIONS COURT, THALASERY. EXHIBIT P8 : STAY PETITION, CRMP11642013 IN CRA31313 FILED BEFORE THE SESSIONS COURT, THALASSERY. RESPONDENT(S)' EXHIBITS : NIL. //TRUE COPY// P.A. TO JUDGE BP V.K.MOHANAN, J
===== O.P(Crl.) No.156 of 2014
===== Dated this the 23rd day of July, 2014

ORDER

The above Original Petition is preferred under Article 227 of the Constitution of India at the instance of the aggrieved person in M.C No.155/2012 pending before the Judicial First Class Magistrate - I, Kannur. The grievance of the petitioner is that though she had preferred an appeal, Crl.Appeal No. 313/2013 before the Sessions Court, Thalassery against Ext.P6 common order dated 20.09.2013 in CMP No.2040/2013 and C.M.P No.3357/2013, the learned Magistrate allowed C.M.P No.2040/2013 and C.M.P No. 3357/2013 filed by the respondent therein

and the interim order granted in favour of the aggrieved person in C.M.P522312 was vacated. According to the aggrieved person, in the light of Ext.P6 order she will be ousted from the O.P (Crl.) No.156/2014 2 shared house hold. It is the further grievance of the petitioner that though she preferred appeal, no interim order is issued in Ext.P8 stay petition filed along with Ext.P7 appeal and the appeal itself is not heard, but, during the pendency of the above, trial court being proceeding with the trial of the main M.C.

2. Heard the learned counsel for petitioner. Considering the facts and circumstances involved in the case and in view of the order which I proposed to pass in the above petition, I am of the view that notice to the respondents in the above petition can be dispensed with.

3. The petitioner herein, as I indicated earlier, is the aggrieved person who initiated proceedings under the provisions of the Protection of Women from Domestic Violence Act and initially she had got an order in C.M.P52232012 from the trial court O.P (Crl.) No.156/2014 3 restraining the respondents therein from ousting the petitioner. The said order is now stand vacated as per Ext.P6 common order which was challenged in the appeal as I indicated earlier. If the trial is proceeded in the trial court, the appeal would become infructuous which will be resulted in prejudice to the petitioner. Therefore, it is only just and proper to direct the appellate court to take up the appeal as well as the interlocutory application filed therein and to pass appropriate orders thereof and to direct the trial court to defer the trial for a specific period. In the result this O.P is disposed of directing the appellate court to consider either Ext.P7 appeal or Ext.P8 petition filed thereof and to pass appropriate orders either on the main appeal or on Ext.P8 stay petition, at any rate, such an order shall be passed within three months from the date of producing a copy of this order O.P (Crl.) No.156/2014 4 before the Appellate Court. The trial court is directed to defer the trial in M.C No.155/2012 for a period of three months, till then the parties are directed to maintain status quo. Sd/- V.K.MOHANAN, JUDGE //True Copy// P.A to Judge vdv