

James vs Little Flower

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Mr. Justice Anil K.Narendran,Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : OP (FC)/94/2023

Appellant : JAMES

Respondent : Little Flower

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA, 1944 O.P.(FC) NO. 94 OF 2023 SPEEDY DISPOSAL OF E.A.NO.142 OF 2022 IN E.P.NO.14 OF 2020 IN O.P.NO.620 OF 2017 ON THE FILES OF THE FAMILY COURT, CHAVARA PETITIONERS: 1 JAMES AGED 43 YEARS, S/O DAVID, RESIDING @ SILVI NIVAS, PAVITHRAM NAGAR-230, VADAKKUMBHAGOM, ERAVIPURAM VILLAGE, KOLLAM, PIN - 691011. 2 REETHA DAVID, AGED 60 YEARS, W/O DAVID, RESIDING @ SILVI NIVAS, PAVITHRAM NAGAR-230, VADAKKUMBHAGOM,

ERAVIPURAM VILLAGE, KOLLAM, PIN - 691011. BY ADVS. R.KISHORE (KALLUMTHAZHAM) K.G.ALEXANDER RESPONDENT: LITTLE FLOWER AGED 38 YEARS, D/O DAMACIOUS, UPPAN VILAYIL, CHAVARA SOUTH, THEKKUMBHAGOM VILLAGE, KARUNAGAPPALLY.P.O, KOLLAM, PIN - 690518. THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 28.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

P.G. Ajithkumar, J.

This Original Petition under Article 227 of the Constitution of India is filed by the judgment debtors in O.P.No.620 of 2017 on the file of the Family Court, Chavara. They seek to direct the Family Court to dispose of E.A.No.142 of 2022 in E.P.No.14 of 2020 in O.P.No.620 of 2017 within a time frame fixed by this Court.

2. Considering the nature of relief proposed to be granted, service of notice on the respondent is dispensed with.

3. Heard the learned counsel appearing for the petitioners.

4. The respondent-decree holder filed O.P.No.620 of

2017 before the Family Court, Chavara and obtained an award. While execution petition filed by the respondent for enforcement of the said award was pending, the matter involved therein was settled between the petitioners and the respondent. In terms of the settlement, an amount of Rs.12 lakhs, which would be due from the 1st petitioner from the Indian Army towards the pensionary benefits to the 1st petitioner allowed to be received by the respondent. The amount is yet to be released. In the meanwhile the respondent obtained an

order from the Family Court, Chavara directing the PCDA

(ORS), Allahabad, Uttar Pradesh, who is the disbursing officer, to transfer an amount of Rs.12 lakhs to the Sub Treasury, Chavara, for payment to the

respondent.

5. It is contended that on the basis of the order of the

Family Court, 1st petitioner's pension account is kept on hold and he is unable to draw his monthly pension amounting Rs.31,825/-. He therefore filed E.A.No.142 of 2022 to release his pension account so as to enable him to receive the pension, which is absolutely necessary for the sustenance of himself and aged mother. The grievance of the petitioners is that the said petition is yet to be heard and disposed of by the Family Court, although it was filed as early as on 23.11.2022.

6. Considering the submissions of the learned counsel

appearing for the petitioners and the facts narrated in the Original Petition, we direct the Family Court, Chavara to dispose of E.A.No.142 of 2022 and also connected application, E.A.No.143 of 2022 in E.P.No.14 of 2020 in O.P.No.620 of 2017, within a period of two months from the date of production of a certified copy of this judgment. Original Petition is disposed of accordingly. Sd/- ANIL K. NARENDRAN, JUDGE Sd/- P.G. AJITHKUMAR, JUDGE dkr APPENDIX OF OP (FC) 94/2023 PETITIONER EXHIBITS EXHIBIT P1 THE CERTIFIED COPY OF THE MEDIATION AGREEMENT DATED 18.01.2022 EXHIBIT P2 THE CERTIFIED COPY OF THE EA NUMBERED AS 142/2022 IN EP 14/2020 DATED 14.02.2023 EXHIBIT P3 THE TRUE COPY OF THE LETTER ISSUED BY

THE FAMILY COURT TO AOC RECORDS, SECUNDERANBAD (15), C/O 56 APO, THELUNGANA DATED 05.08.2022 TO TRANSFER RS.12,00,000 TO THE CIVIL COURT, CHAVARA. EXHIBIT P4 THE CERTIFIED COPY OF THE EA 143/2022 IN EP 14/2020 DATED 23.11.2022.

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