

John Itty vs Shobha Johnson

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Court : Kerala

Decided On : Feb-07-2022

Judge : Honourable Mr. Justice a.Muhamed Mustaque,Honourable Mrs. Justice Sophy Thomas

Appeal No. : OP (FC)/36/2022

Appellant : John Itty

Respondent : Shobha Johnson

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
MONDAY, THE 7TH DAY OF FEBRUARY 2022 / 18TH MAGHA, 1943
OP (FC) NO. 36 OF 2022 AGAINST THE ORDER IN IA 5/2021 IN OP 19/2015 OF FAMILY COURT, PATHANAMTHITTA
PETITIONER/RESPONDENTS: 1 JOHN ITTY AGED 47 YEARS
S/O.M.J.ITYY, MANGATTU HOUSE, CHENGALAM SOUTH P.O.,
KOTTAYAM NOW RESIDING AT POST BOX NO.1347, RUWY,
POSTAL CODE 112, SULTANATE OF OMAN, REP. BY THE POWER
OF ATTORNEY M.J.ITYY, AGED 47, MANGATTU HOUSE,

CHENGALAM SOUTH P.O., KOTTAYAM.

2 M.J. ITTY AGED 82 YEARS MANGATTU HOUSE, CHENGALAM SOUTH P.O., KOTTAYAM. BY ADVS. C.S.MANILAL S.NIDHEESH RESPONDENT/PETITIONER: SHOBHA JOHNSON AGED 47 YEARS W/O. JOHNSON ITTY, RESIDING AT NEEROMPLACKAL HOUSE, PAZHAVANGADI P.O., RANNI, PATHANAMTHITTA - 689 673. BY ADVS. ABRAHAM P.MEACHINKARA KURIAKOSE MATHEW MARGARET MAUREEN DROSE JAYAKRISHNAN P.R. THOMAS GEORGE THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 07.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: A.MUHAMED MUSTAQUE &

SOPHY THOMAS, JJ.

----- Dated this the 07th day of
February, 2022

JUDGMENT

A.Muhammed Mustaque, J.

The petitioners are the respondents in O.P.No.19/2015 on the files of the Family Court, Pathanamthitta.

2. The above petition is being tried along with the

connected matters before the Family Court. The first respondent, who is the first petitioner herein, is working at Oman. The evidence on the side of the respondents was complete. The 1st petitioner filed an application to tender his evidence through video conferencing. This application has been dismissed. Challenging this, petitioners have approached this Court.

3. The Family Court noted that there is no provision to record evidence through video conferencing.

4. It is to be noted that Electronic Video Linkage Rules

for Courts (Kerala) came into force with effect from 25-08-2021. This Rules enables to take evidence of a party, who resides abroad through video conferencing platform.

5. Learned counsel for the respondent submits that huge

arrears of maintenance is due from the first petitioner, and he is evading the process of the court not to honour his obligation under the maintenance order. It is submitted that I.A.No.1/2022 has been filed in the original petition to strike off the pleadings of the petitioners.

6. Considering the facts and circumstances of the case,

we pass the following orders. (i) The impugned order is set aside. (ii) The application to tender evidence through electronic mode shall be re-considered by the Family Court in the light of the Electronic Video Linkage Rules for Courts (Kerala), 2021. (iii) However, before considering the petition to tender evidence through electronic media, the Family Court shall consider the application filed by the respondent as I.A.No.1/2022 in O.P.No.19/2015. The Original Petition is disposed of. Sd/- A.MUHAMED MUSTAQUE, JUDGE Sd/-SOPHY THOMAS, JUDGE Isn APPENDIX OF OP (FC) 36/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE OP 19/2015 FILED BEFORE THE FAMILY COURT, PATHANAMTHITTA., Exhibit P2 TRUE COPY OF THE O.P.(DIV.) 626/2016 FILED BEFORE THE FAMILY COURT, PATHANAMTHITTA. Exhibit P3 TRUE COPY OF THE GUARDIAN AND WARDS OP PATHANAMTHITTA. Exhibit P4 TRUE COPY OF THE I.A.5/2021 IN O.P.19/2015 FILED BEFORE THE FAMILY COURT, PATHANAMTHITTA DATED 12/12/2021. Exhibit P5 TYPE WRITTEN COPY OF THE ORDER IN I.A.5/2021 IN O.P.19/2015 FILED BEFORE THE FAMILY COURT, PATHANAMTHITTA DATE Exhibit P6 TRUE COPY OF THE PETITION IN O.P.19/2015 AND CONNECTED CASES FILED BEFORE THE FAMILY COURT, PATHANAMTHITTA DATED RESPONDENTS EXHIBITS: NIL TRUE COPY P.A TO JUDGE LSN