

Ganga, vs Ajikumar,

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Court : Kerala

Decided On : Jan-18-2021

Judge : Honourable Mr. Justice a.Muhamed Mustaque,Honourable Mr.Justice C.S.Dias

Appeal No. : OP (FC)/53/2019

Appellant : GANGA,

Respondent : Ajikumar,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 18TH DAY OF JANUARY 2021 / 28TH POUSHA, 1942 AGAINST THE ORDER/JUDGMENT IN OP 631/2016 OF FAMILY COURT, ALAPPUZHA PETITIONER/S: GANGA, AGED 29 YEARS D/O. MURALI, C.M.C - 5, NIKARTHIL VEEDU, KOKKOTHAMANGALAM VILLAGE, CHERTHALA, ALAPPUZHA PIN - 688 527 BY ADV. SRI.MANU ROY RESPONDENT/S: 1 AJIKUMAR, AGED 38, S/O KARTHIKEYAN, CHANIYIL VEEDU, KOKKOTHAMANGALM VILLAGE, CHERTHALA BY HIS POWER OF ATTORNEY HOLDER

SHOBANA@SHOBANAVALLY W/O KARTHIKEYAN CHANAYIL AGED 66 YEARS, 658 527. 2 SIBEESH BABU, AGED 26 YEARS S/O BABU, VARYATHU VELI, EZHUPUNNA VILLAGE, PIN - 688 548. THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON 18.1.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

C.S.Dias,J.

The original petition is filed seeking to set aside Ext.P5

order passed by the Family Court, Alappuzha in O.P.

No.631/2016.

2. The concise case of the petitioner in the original petition is that she is the 1st respondent in O.P. No.631/2016 (Ext.P1) of the Family Court, Alappuzha, which was filed by the 1st respondent - her husband, seeking a decree of divorce.

3. The petitioner has filed O.P. No.698/2016 (Ext.P2)

seeking a decree for restitution of conjugal rights. The 1 st respondent has filed I.A 1428/2018 in O.P. (HMA) 631/2016 (Ext.P3) to record his evidence through video conferencing. Although the petitioner filed Ext.P4 written objection to Ext.P3, the Family Court by Ext.P5 order allowed the application.

4. Assailing Ext.P5 order, the petitioner is before this Court.

5. Although this Court on 5.2.2019 issued notice to the respondent, no interim order has been granted.,

6. A larger Bench of the Hon'ble Supreme Court in

Santhini v. Vijaya Venketesh [2018 1 SCC 1] has held that there is no legal impediment in getting evidence recorded through video conferencing. This Court has in a catena of decisions gone on to hold that evidence get recorded through

video conferencing.

7. In the said circumstances, especially considering

the law laid down by the Hon'ble Supreme Court in Santhini (supra) and that this Court had declined to grant any interim order against Ext.P5 order though the same was filed on 22.1.2019 and it is more than two years since the case is pending consideration, we do not find any ground to allow the original petition at this distance of time. Perhaps Ext.P1 proceeding may have been disposed of by the Family

Court. In the totality of the facts and circumstances of the

case, we do not find any illegality or error in Ext.P5 order

passed by the Family Court, warranting interference by this Court in exercise of its supervisory jurisdiction as enshrined under Article 227 of the Constitution of India.

The writ petition fails and is hence dismissed. Sd/- A.MUHAMED MUSTAQUE
JUDGE Sd/ C.S.DIAS ma JUDGE APPENDIX OF OP (FC) 53/2019
PETITIONER'S/ EXHIBITS: EXHIBIT P1 COPY OF THE PETITION FOR
DIVORCE DATED 28-09-2016. EXHIBIT P2 COPY OF THE O.P 698/18 DATED
31- 07-2018. EXHIBIT P3 COPY OF I.A 1428/2018 DATED 06-09- 2018. EXHIBIT
P4 COPY OF OBJECTION IN I.A 1428/2018 DATED 15-10-2018. EXHIBIT P5
TRUE COPY OF ORDER IN I.A

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