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Isahac vs Haseena

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SooperKanoon Citation : sooperkanoon.com/1723768

Court : Kerala

Decided On : Feb-01-2021

Judge : Honourable Mr. Justice a.Hariprasad,Honourable Mr.Justice T.V.Anilkumar

Appeal No. : OP (FC)/665/2019

Appellant : Isahac

Respondent : Haseena

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.HARIPRASAD & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR MONDAY, THE 01ST DAY OF FEBRUARY 2021 / 12TH MAGHA,1942 OP (FC).No.665 OF 2019 OP 159/2018 OF FAMILY COURT, TIRUR PETITIONER/RESPONDENT: ISAHAC AGED 37 YEARS S/O.KADER, EZHUDEEKKAL HOUSE, AZHEEKKAL, LIGHT HOUSE ROAD, PONNANI NAGARAM P.O., MALAPPURAM-679 583. BY ADVS. SRI.K.R.AVINASH (KUNNATH) SRI.ABDUL RAOOF PALLIPATH RESPONDENTS/PETITIONERS:

1 HASEENA AGED 31 YEARS S/O.AZEER, RESIDING AT KOYANKANAKATH HOUSE, P.O., MALAPPURAM-679 583. 2 FATHIMA SHAREEN, AGED 12 YEARS D/O.HASEENA, RESIDING AT KOYANKANAKATH HOUSE, P.O., MALAPPURAM-679 583. (MINOR REPRESENTED BY 1ST RESPONDENT MOTHER). :-2-: 3 SAFWANA, AGED 8 YEARS D/O.HASEENA, RESIDING AT KOYANKANAKATH HOUSE, P.O., MALAPPURAM-679 583. (MINOR REPRESENTED BY 1ST RESPONDENT MOTHER). R1-3 BY ADV. SRI.JAMSHEED HAFIZ R1-3 BY ADV. SMT.T.S.SREEKUTTY THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON

01.02.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :-3-: Dated this the 1st day of February, 2021

J U D G M E N T

A.HARIPRASAD, J.

Heard the learned counsel for the petitioner and the respondents.

2. The prayer in the original petition reads thus; (i) Call for the records in O.P.No.159 of 2018 on the file of Family Court, Tirur.

(ii) Close the proceedings in O.P.No.159 of 2018 on the file of Family Court, Tirur.

(iii) Grant such other reliefs as this Hon'ble Court may deem fit and proper as on the facts and circumstances of the case.

3. Learned counsel for the petitioner/husband submitted that Ext.P1 original petition is filed against the terms of an award passed in a Lok Adalath. Ext.P3 is the award. According to him, Ext.P1 original petition is not maintainable before the Family Court, Tirur.

4. Whereas the learned counsel for the 1st respondent/wife submitted that the claims now :-4-: raised in Ext.P1 original petition are not covered by Ext.P3 award. This factual question need not be decided in an original proceedings of this nature.

Therefore, we direct the Family Court, Tirur, to consider the maintainability of O.P.No.159/2018 in the light of facts and law applicable to the

case. The Family Court shall also consider the legal effect of Ext.P3 award in this matter. The matter shall be disposed of within a period of two months from the date of receipt of certified copy of this order.

All pending interlocutory applications are closed. Sd/- A.HARIPRASAD JUDGE Sd/- T.V.ANILKUMAR JUDGE ami/ :-5-: APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE OP NO.159/2018 FILED BY THE RESPONDENTS BEFORE THE FAMILY COURT, TIRUR. EXHIBIT P2 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN OP NO.159 OF 2018 BEFORE THE FAMILY COURT, TIRUR DATED 15.06.2019. EXHIBIT P3 TRUE COPY OF THE AWARD DATED 09.12.2017 IN MC NO.147 OF 2016 OF TALUK LEGAL SERVICES COMMITTEE, PONNANI.

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