

Kerala High Court

Dinesan.K.U vs Preethi.C.S on 16 November, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

OP (FC).No. 731 of 2010(R)

1. DINESAN.K.U, AGED 44 YEARS,  
... Petitioner

Vs

1. PREETHI.C.S, AGED 42 YEARS, D/O.VILASINI,  
... Respondent

For Petitioner : SRI.M.G.DEVIPRASADAN

For Respondent : No Appearance

The Hon'ble MR. Justice R.BASANT  
The Hon'ble MR. Justice K.SURENDRA MOHAN

Dated : 16/11/2010

O R D E R

R. BASANT &  
K. SURENDRA MOHAN, JJ.

-----  
O.P.(FC) No. 731 of 2010-R  
-----

Dated this the 16th day of November, 2010

JUDGMENT

Basant,J.

The spouses are the parties. Claim for maintenance under Sec.125 Cr.P.C. has been pending before the Family Court, Ernakulam from 2009. An application for interim maintenance was also filed. The same was also pending from 24/9/09.

2. Marriage is admitted. The contention raised is that on disposal of an item of property belonging to the husband, a lump sum amount has been paid to the wife. No documents were produced to

support that plea. There is no contention that the wife is employed or has any independent source of income. The wife asserted that the husband has employment and income. The husband denied the same. In these circumstances, the court below proceeded to issue the impugned direction to pay interim maintenance at the rate of Rs.1,500/- per mensem with effect from 24/9/09 i.e., the date of petition.

3. The petitioner claims to be aggrieved by the impugned order. The petitioner prays that the extraordinary constitutional jurisdiction available to this Court under Art.227 of the Constitution may be invoked to interfere with the impugned order.

4. We have heard the learned counsel for the petitioner. We find absolutely no justification in the prayer to invoke the jurisdiction under Art.227 of the Constitution. Status is admitted. The inability of the wife to maintain herself does not appear to be disputed. The contention that a lump sum amount has been paid has not been substantiated. The matter has been pending before the court below for about a year. We do not, in these circumstances, find any merit in the prayer to grant further time to adduce evidence in this application for interim maintenance. The order directing payment of interim maintenance, we are satisfied, is absolutely fair, reasonable and just. The same does not call for interference by invoking the jurisdiction under Art.227 of the Constitution.

5. This petition is accordingly dismissed.

6. We, however, direct the learned Judge of the Family Court to dispose of M.C.No.103/09 as expeditiously as possible - at any rate, within a period of 6 months from the date on which a copy of this judgment is placed before the Family Court by the learned counsel for the petitioner. Compliance shall be reported to this Court.

7. Hand over a copy of this judgment to the learned counsel for the petitioner.

Sd/-

R. BASANT (Judge) Sd/-

K. SURENDRA MOHAN (Judge) Nan/ //true copy// P.S. to Judge