

Kerala High Court

Vasanthkumar vs Jayanthi Kanakadevi on 11 November, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Mat.Appeal.No. 380 of 2010()

1. VASANTHKUMAR, S/O.BALACHANDRAN NAIR,
... Petitioner

Vs

1. JAYANTHI KANAKADEVI,
... Respondent

For Petitioner :SRI.G.SREEKUMAR (CHELUR)

For Respondent :SRI.BABU S. NAIR

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

Dated :11/11/2010

O R D E R

R. BASANT & K. SURENDRA MOHAN, JJ.

----- C.M.Appl. Nos.1069 & 1070/10 & Mat. Appeal Nos.380
& 381 of 2010

----- Dated this the 11th day of November, 2010
ORDER/JUDGMENT Basant,J.

These petitions are for condonation of delay in filing two Mat. Appeals. We have heard both counsel. The appeals are directed against orders passed by the Family Court dismissing applications to set aside the ex parte orders in two O.Ps. In the O.Ps. past maintenance as also restitution of conjugal rights were claimed. Such prayers were allowed as per the ex parte orders passed.

2. We have heard both counsel. The common appellant has already deposited an amount of Rs.1,18,000/-. After hearing both sides, we are satisfied that a lenient view can be taken; the delay in

filing the appeals can be condoned and the appeals can themselves be allowed subject to appropriate terms and Mat. Appeal Nos.380 & conditions.

3. In the result:

(a) The applications for condonation of delay are allowed and the appeals are admitted.

(b) The appeals are allowed subject to conditions.

(c) Both appeals shall stand allowed, the impugned orders and the ex parte orders shall stand set aside and the court below shall dispose of O.P.Nos.185/08 and 708/08 afresh on merits on the following terms:

(i) The amount of Rs.1,18,000/- deposited by the appellant before the lower court shall forthwith be released to the respondent/claimant/wife.

(ii) The appellant shall deposit before the court below the entire balance amount due under the decree for past maintenance in O.P.No.708/08 within a period of 60 days from this date. If the amount is deposited, the court below shall retain the same in a Fixed Deposit account with any nationalised bank such that the principal amount along with interest accrued can be released to the successful party after fresh disposal of O.P.No.708/08.

(iii) The parties shall appear before the court below on 13/1/2011.

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(iv) If the above conditions are satisfied, the court below shall proceed to dispose of O.P.No.185/08 and O.P.No.708/08 afresh in accordance with law. The court below shall dispose of the matter as expeditiously thereafter as possible - at any rate, within a period of 4 months from 13/1/11. If the conditions are not complied with, the court below shall record that fact on 13/1/11 and thereupon the impugned orders shall revive.

R. BASANT (Judge) K. SURENDRA MOHAN (Judge) Nan/