

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

MONDAY, THE 10TH DAY OF APRIL 2023 / 20TH CHAITHRA, 1945

O.P. (FC)NO.148 OF 2023

O.P.No.1159 OF 2018 ON THE FILE OF THE FAMILY COURT,

PALAKKAD

PETITIONER/PETITIONER:

NEETHU JAGDISH,
AGED 36 YEARS,
D/O JAGADEESH KUMAR, NO.18, VISMAYAM, T.K.V.
NAGAR, BANK COLONY, KALMANDAPAM, PALAKKAD
NO.III VILLAGE, PALAKKAD TALUK, PALAKKAD
DISTRICT, PIN - 678001

BY ADVS.
A.MUHAMMED MUSTHAFA
R.K.ASHA

RESPONDENT/RESPONDENT:

MANUMOHAN MANI,
AGED 39 YEARS,
S/O. K.MANI NO.13, NIRMALYAM, AYODHYA NAGAR,
PIRIVUSALA, CHANDRANAGAR P.O., KODUMBU VILLAGE,
PALAKKAD TALUK, PALAKKAD DISTRICT, PIN - 678007

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 10.04.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

“CR”

JUDGMENT

Anil K. Narendran, J.

The petitioner filed O.P.No.1159 of 2018 on the file of the Family Court, Palakkad, under Section 13(1)(i)(ia) of the Hindu Marriage Act, 1955, against the respondent herein-husband, seeking a decree of divorce to dissolve the marriage solemnised between them on 20.03.2009 at Sree Krishna Temple, Guruvayur. The petitioner-wife filed I.A.No.3 of 2022 (Ext.P3) before the Family Court, seeking time-bound disposal of O.P.No.1159 of 2018. In that interlocutory application, the Family Court passed an order dated 13.09.2022, which is placed on record as Ext.P5, along with I.A.No.1 of 2023. The said order reads thus;

“Petition allowed and the case will be disposed of at the earliest.”

The petitioner has filed this original petition, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, seeking an order directing the Family Court, Palakkad to dispose of O.P.No.1159 of 2018 (Ext.P1) within a time frame to be fixed by this Court or in the alternative an order directing the Family Court to reconsider Ext.P3 interlocutory application, by fixing a time limit for disposal of

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the said original petition.

2. Heard the learned counsel for the petitioner-wife. Considering the nature of relief proposed to be granted, service of notice on the respondent-husband is dispensed with.

3. In **Jasbir Singh v. State of Punjab [(2006) 8 SCC 294]** the Apex Court held that the power of superintendence conferred upon the High Court under Article 227 of the Constitution of India over all courts and Tribunals throughout the territory of the State is both of administrative and judicial nature and it could be exercised suo motu also. In **Radhey Shyam v. Chhabi Nath [(2015) 5 SCC 423]** a Three-Judge Bench of the Apex Court reiterated that Article 227 of the Constitution of India can be invoked by the High Court suo motu as a custodian of justice.

4. In **Shiju Joy v. Nisha [2021 (2) KLT 607]** a Division Bench of this Court issued various directions to streamline the procedure as conceived under the law to avoid failure of justice, i.e., non-adherence of rules which ensures the right of the disputants to get timely justice, and in the said decision the Division Bench has made it clear that those normative and procedural outlines, which are illustrative in nature, shall be scrupulously followed by the Family Courts. In

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view of the directions issued by the Division Bench, all interlocutory applications are to be disposed of within four weeks after the appearance of the parties, if not, specific reasons shall be stated. The Family Courts are permitted to depart from the procedure contained in paragraph 10 of the said decision, on a motion made by a party for an early hearing of a case or cases for any justifiable or valid reason. If any party desires to move an application for an early hearing, he/she shall move the Family Court at the first instance. The Family Court shall dispose of such application, as expeditiously as possible, at any rate within two weeks from the date of moving such application. It would be open to the Family Court to pass orders on such applications in the chambers.

5. The directions contained in the decision in **Shiju Joy [2021 (2) KLT 607]** came into force with effect from 01.06.2021. The Division Bench directed the Family Courts to place a report before Registrar (District Judiciary) by 31.12.2021, with regard to compliance of the directions contained in the said decision.

6. In the instant case, the original petition filed by the petitioner-wife, seeking a decree of divorce under Section 13(1)(i)(ia) of the Hindu Marriage Act, is one filed in the year

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2018. Seeking time-bound disposal of that original petition, the petitioner filed I.A.No.3 of 2022, which is dated 13.09.2022. The Family Court allowed that interlocutory application, by Ext.P5 order dated 13.09.2022, wherein it is stated that the case will be disposed of at the earliest. After the aforesaid order of the Family Court in I.A.No.3 of 2022, the evidence on the side of the petitioner-wife was over by 11.11.2022. For the evidence on the side of the respondent-husband, the original petition was posted on 02.12.2022, 25.01.2023, 14.02.2023, 01.03.2023 and 30.03.2023. Now, the matter is listed tomorrow (11.04.2023) for the evidence of the respondent-husband.

7. A motion made by a party for an early hearing or time-bound disposal of a case or cases for any justifiable or valid reason has to be dealt with appropriately by the Family Court, by passing an order for early hearing or time-bound disposal of that case or cases. In case the applicant has not stated any justifiable or valid reason for early hearing or time-bound disposal, the Family Court has to dismiss that application, stating a brief reason. On the other hand, if the applicant has stated any justifiable or valid reason for early hearing or time-bound disposal, the Family Court has to pass an order in that interlocutory application ordering early hearing or time-bound

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disposal of that case or cases, specifying the time limit in that order. The disposal of such an application, by passing an order that the case will be disposed of at the earliest, is not the disposal contemplated in the decision of this Court in **Shiju Joy [2021 (2) KLT 607]**.

8. As already noticed hereinbefore, in O.P.No.1159 of 2018, the evidence on the side of the petitioner-wife was over by 11.11.2022. After repeated postings, the original petition now stands listed to tomorrow (11.04.2023) for the evidence of the respondent-husband.

9. Having considered the submissions made by the learned counsel for the petitioner, we deem it appropriate to dispose of this original petition by directing the Family Court, Palakkad to finally dispose O.P.No.1159 of 2018, as expeditiously as possible, at any rate, within a period of three months from the date of production of a certified copy of this judgment.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

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VERDICTUM.IN

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APPENDIX OF OP (FC) 148/2023

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE O.P. NO. 1159/2018
PENDING BEFORE THE FAMILY COURT,
PALAKKAD
- Exhibit P2 A TRUE COPY OF THE COUNTER AFFIDAVIT
08.05.2019 AND FILED ON 25.01.2020
- Exhibit P3 A TRUE COPY OF THE IA NO.3/22 IN OP.NO.
1159/2018 FILED IN FAMILY COURT,
PALAKKAD
- Exhibit P4 A TRUE COPY OF THE JUDGMENT, DATED
28.02.2023 IN OP(FC) 96 OF 2023
- Exhibit P5 A TRUE COPY OF THE ORDER, DATED
13.09.2022 IN IA 3/22 IN ORIGINAL
PETITION 1159/2018