



2024/KER/13432

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

&

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

THURSDAY, THE 15TH DAY OF FEBRUARY 2024 / 26TH MAGHA, 1945

MAT.APPEAL NO. 688 OF 2023

AGAINST THE ORDER OP 1532/2022 OF FAMILY COURT, KANNUR

APPELLANT:

SHEZA AHMAD KUNIMMAL
AGED 30 YEARS
D/O AHMAD, FARSANA'S HOUSE, PAYANGODAN PARA ROAD,
KUNHIPPALLY, KOTTALI P.O, KANNUR DT., PIN - 670005
BY ADVS.
M.MUHAMMED SHAFI
T.RASINI
SWATHY A.P.

RESPONDENT:

JAISAL VALIYAKUNNATH
AGED 36 YEARS
S/O ABOOBACKER, VALIYAKUNNATH HOUSE, NEAR OLD BUS
STAND, KOYILANDI, KOZHIKODE DT., PIN - 673305

THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION ON
15.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**Dated this the 15th day of February, 2024**ANU SIVARAMAN, J**

This Mat.Appeal is preferred against the judgment of the Family Court, Kannur, in Original Petition No.1532/2022. The OP filed by the petitioner was rejected on the finding that the Family Court did not have territorial jurisdiction to consider the OP. It is submitted by the learned counsel for the appellant that a reading of the judgment will make it clear that the Family Court has considered the contentions that the petitioner would be entitled to get the relief of declaration of dissolution of marriage by the Khula as prayed for by the petitioner, provided the Court has all jurisdiction to entertain the petition. However, it is submitted that on the question of jurisdiction, the Family Court had erroneously held that it did not have territorial jurisdiction to consider the OP.

2. It is submitted by the learned counsel for the appellant that a perusal of the judgment would itself show that it was the definite case of the respondent in the OP that the petitioner was staying at Kakkad, within the jurisdiction of the Family Court at Kannur from 01.06.2022 onwards. It is



submitted that a reading of the judgment itself would clearly show that the Khula Nama dated 28.09.2022 which was produced as Annexure A2 was one executed at Kakkad, where she was residing at the relevant time. It is submitted that the Khula Nama was duly sent by post from her postal address at Kunhippally, Kakkad. It is submitted that this aspect of the matter, though it is clear from a reading of the judgment, has not been considered by the Family Court. We notice that the Mat. Appeal had been admitted on 10.01.2024 and notice ordered to the respondent on that day. Though, notice was duly sent and the respondent signed notice and service is complete, there is no appearance for the respondent.

2. The learned counsel appearing for the appellant submits that though, another OP was filed by the respondent before the Family Court, Vadakara, the said OP is also not being prosecuted.

3. Having considered the contentions advanced, we notice that Annexure A2 copy of the notice of declaration of Khula had been specifically referred to by the Family Court. The learned counsel for the appellant would make available,



copy of Ext.A2 for our perusal, which would show that it was executed at Kunhippally, Kakkad and that it was sent from her address at Kunhippally. It is asserted by the learned counsel for the appellant that the said address of the appellant as shown in the Original petition is within the territorial jurisdiction of the Family Court, Kannur. In view of the fact that the cause of action has arisen within the jurisdiction of the Family Court, Kannur, it is contended that the Family Court, Kannur, did have ample jurisdiction to consider the OP.

4. Having considered the contentions advanced, we notice that the Family Court has considered the contentions of the parties and has come to the conclusion that in case, there is territorial jurisdiction available to the Family Court, Kannur, then, the OP is liable to succeed. In view of the fact that the place where the Khula nama was executed and sent forth is within the territorial jurisdiction of the Family Court, Kannur, we are of the opinion that the finding that the Family Court, Kannur, does not have jurisdiction to entertain the OP is erroneous. In the above view of the matter, this appeal is ordered, vacating the finding on point no. 1 and holding that



the Family Court, Kannur does have territorial jurisdiction to consider the OP. In the light of the finding on issue No.2 entered by the Family Court, the declaration as sought for is granted.

The above Mat Appeal is ordered accordingly.

sd/-

**ANU SIVARAMAN
JUDGE**

sd/-

**C.PRATHEEP KUMAR
JUDGE**

Nsd