

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 0090-0091 OF 2020
(Arising out of SLP (C) Nos.5821-5822 of 2018)

K. BABUKUTTAN PILLAI & ETC.

... Appellants

VERSUS

ANITHA KESAVADAS

... Respondent

O R D E R

Leave granted.

By the impugned order, the High Court has concluded that the petitioner has to approach the civil court and not the family court inasmuch as the dispute between the parties relates to a commercial transaction.

Records reveal that O.P. No. 1683 of 2009 was filed before the Family Court at Ernakulam in view of the dispute between the petitioner No.1 and the respondent who were the husband and wife. It is also brought to our notice that the divorce has taken place between the parties subsequently. In the said O.P. No.1683 of 2009, the matter came to be settled out of court and the joint compromise was placed before the Court. The same was recorded and the OP was disposed of recorded as settled out of court. The copy of the joint compromise settlement is also placed before us. As mentioned supra, the parties have agreed to settle the disputes *inter se* in a particular manner enjoying the properties as well as the business.

It is the case of the petitioner that there is a breach of the said settlement by the respondent and hence, the petitioner once again moved the Family Court for appropriate reliefs. The Family Court rejected the reliefs prayed for by the petitioner and the High Court has confirmed the same by observing that that the Family Court has no jurisdiction and the matter is to be decided by the Civil Court as the dispute relates to commercial transaction. However, the High Court has not decided the matter on merits.

In our considered opinion, the dispute in question is purely a family dispute and the same arises out of the settlement arrived at between the parties before the Family Court. As could be seen from the Preamble of the Family Courts Act, 1984, it is clear that the Act was enacted to secure conciliation in, and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith. Section 7(1) of the Family Courts Act deals with the aspect of jurisdiction. Explanations (c) and (d) to Section 7 make it amply clear that a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them; or a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship shall lie before the family court.

In view of the same, in our considered opinion, the High Court was not justified in concluding that the Family Court has no jurisdiction to decide the matter. Accordingly, the impugned judgment of the High Court is set aside. The matter is remanded to

the High Court for fresh disposal. The appeal will be decided on merits without being influenced by observations made earlier during the course of the impugned order.

The appeals are, accordingly, disposed of.

....., J.
(Mohan M. Shantanagoudar)

....., J.
(R. Subhash Reddy)

New Delhi;
January 08, 2020.

ITEM NO.34

COURT NO.13

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).5821-5822/2018

(Arising out of impugned final judgment and order dated 31-10-2017 in RP No. 444/2017 13-03-2017 in MATA No. 575/2015 passed by the High Court Of Kerala At Ernakulam)

K. BABUKUTTAN PILLAI & ETC.

Petitioner(s)

VERSUS

ANITHA KESAVADAS

Respondent(s)

Date : 08-01-2020 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Romy Chacko, AOR
Mr. Varun Mudgal, Adv.
Ms. Ojaswi Sharma, Adv.

For Respondent(s) Mr. Thomas P. Joseph, Sr. Adv.
Mr. James P. Thomas, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

(GULSHAN KUMAR ARORA)
COURT MASTER

(R.S. NARAYANAN)
COURT MASTER

(Signed order is placed on the file)