



2025:KER:60941

CR

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

TUESDAY, THE 12TH DAY OF AUGUST 2025 / 21ST SRAVANA, 1947

OP (FC) NO. 409 OF 2025

AGAINST THE ORDER DATED 26.06.2025 IN I.A.9/2025 IN

OP(HMA)NO.29 OF 2023 OF FAMILY COURT, PARAVOOR

PETITIONER/RESPONDENT NO.1:

**RAKHI, AGED 42 YEARS, D/O SOMARAJAN NAIR,
PLAKKADU CHERRY, ADICHANALOR VILLAGE,
KOLLAM, PIN - 691573**

**BY ADVS.
SRI.JOHNSON GOMEZ
SRI.SANJAY JOHNSON**

RESPONDENTS/PETITIONER/RESPONDENTS 2 AND 3:

- 1 KRISHNAKUMAR, AGED 51 YEARS, S/O SREEDHARAN
PILLAI, SYAMALA MANDIRAM, MYLAKAD P.O.,
ADICHANALLOOR VILLAGE, KOLLAM, PIN - 691573**
- 2 BIJU, AGED 56 YEARS, S/O MANIYAN PILLAI,
BAIJU MANDIARAM, KAVANDU P.O, RAMANKULANGARA,
KOLLAM., PIN - 691573**
- 3 BAIJU, AGED 54 YEARS, S/O SANTHAMMA, SIVAN NADA
PADINJATTHATHIL, TAZHUTHALA NORTH MYLAPORE,
ADICHANALLOOR, KOLLAM., PIN - 691573**

**BY ADVS.
SRI.K.R.ARUN KRISHNAN
SRI.M.S.AJITHKUMAR
SMT.DEEPA K.RADHAKRISHNAN**



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SHRI.SANAL C.S
SHRI.VISHAK K.V.

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
12.08.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



HIGH COURT OF KERALA
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**CR****JUDGMENT****Devan Ramachandran, J.**

The parties to this case are husband and wife; and the former sued the latter for divorce through O.P.(HMA)No.29/2023, before the learned Family Court, South Paravoor. He, however, says that, pending his application for divorce, he ‘found out’ that his wife – who was earlier married to another – obtained judgment dissolving her first marriage only an hour or two after they were married and hence that such marriage is void. He contends that the judgment above mentioned takes effect only after the time it was delivered; and thus applied for amendment of his pleadings, to incorporate additional grounds and plea for a declaration that the marriage is void. This was allowed by the impugned order of the learned Family Court and the petitioner-wife assails it.

2. Sri.Johnson Gomez – learned counsel for the petitioner,



argued that, as *ex facie* evident from Ext.P5, the learned Family Court has allowed Ext.P3 application filed by the 1st respondent, through which, two additional reliefs have been allowed to be incorporated in Ext.P2 Original Petition; and predicated that this is illegal and impermissible. He explained that Ext.P2 Original Petition was filed by the 1st respondent seeking divorce from his client, admitting that there was a valid marriage between them on 28.12.2007; but that, through Ext.P5, what he is trying to establish is that the said marriage is null and void, since his client was involved in a pre-existing marriage at that time. He argued that, it is under such misadventurous scheme that the 1st respondent asserts incorrectly in Ext.P3, that the marriage took place at 10 A.M. on 28.12.2007, so as to make it appear that his client's earlier marriage was dissolved by the learned Family Court, Kollam, only later through Ext.P6 judgment, delivered on the same day. He impressed upon us that the stratagem employed by the 1st respondent is to contend that the judgment dissolving



his client's first marriage can be construed to take effect only after 11 A.M. or thereafter – such time being the hour of commencement of daily schedule of Civil Courts in Kerala – on 28.12.2007; and that, therefore, the marriage between the parties – which allegedly took place at 10 A.M. on that day – is null and void. He asserted that this argument has no forensic foundation because, the law renders it luculent that the effect of a judgment starts from the commencement of the day it is delivered and not from the time it is so.

3. After contending as afore, Sri.Johnson Gomez submitted that, even assuming that his afore argument cannot be accepted, the amendments are still not valid because, the original pleadings and prayers remain – through which the 1st respondent admits that the marriage is legal – but then impels another incongruous set of reliefs, maintaining that the marriage is null and void. He thus prayed that Ext.P5 be set aside.

4. In response, Sri.K.R.Arun Krishnan – learned counsel



for the 1st respondent, submitted that his client filed Ext.P2 Original Petition in the year 2018, when he was not aware that Ext.P6 judgment was obtained by the petitioner only on 28.12.2007. He argued that it is common knowledge that the judgments are delivered by Family Courts after 11 A.M.; and hence, that his client was justified in seeking the reliefs sought through the amendments because, according to him, the marriage between the parties took place at 10 A.M. on the said day. He explained that his client never knew about Ext.P6 until March 2025 – admitting that the Original Petition by then had been pending for more than 7 years; and hence that he was wholly justified in seeking the amendments. He contended that the same are not impermissible, since his client is entitled to seek alternative reliefs – even conflicting with each other – in the Original Petition.

5. Sri.Arun Krishnan, thereafter, argued that, going by Section 15 of the Hindu Marriage Act, 1955 (hereinafter referred



to as ‘the Act’ for short), the petitioner could have contracted a lawful marriage with his client only after the time for Appeal against Ext.P6 had elapsed, or if an Appeal against it had been dismissed by that time. He showed us that, there was no chance for this at all because, Ext.P6 is dated 28.12.2007; while, the marriage between the parties was also conducted on that day. He thus prayed that the impugned order be left uninterdicted.

6. We have given the rival submissions great amount of thought.

7. On the fundamental norms, no doubt, Section 15 of the ‘Act’ would authorize a person to lawfully marry only after the time frame for appealing against the decree dissolving his/her earlier marriage has elapsed, or if an Appeal had been dismissed. This is more manifest from Section 28 of the ‘Act’; and no one can have a case against the same.

8. Coming to the specific aspects of this case, Ext.P6 judgment is a decree of divorce obtained by the petitioner from



her earlier spouse under Section 13B of the ‘Act’ through mutual consent. Normally, therefore, a chance for an appeal against this is remote; and then the corollary issue arises, whether the petitioner was proscribed in law to contract a marriage with the 1st respondent.

9. Section 15 of the ‘Act’ reads as under:

15. Divorced persons when may marry again –
When a marriage has been dissolved by a decree of divorce and either there is no right of appeal against the decree or, if there is such a right of appeal, the time for appealing has expired without an appeal having been presented or an appeal has been presented but has been dismissed, it shall be lawful for either party to the marriage to marry again:

10. The crucial query is whether a marriage contracted within the time frame mentioned in Section 15 of the ‘Act’, even when the decree of divorce has not been appealed against, can be construed to be illegal in all cases. Even a close reading of this provision would not concede to any such conclusion; though, if a person is to contract a marriage in violation of the same, it is possible that a legal challenge against it could be made by the



divorced spouse.

11. As we have said above, Ext.P6 judgment establishes without doubt – as is also admitted – that the petitioner obtained divorce from her former husband through a Joint Application made under Section 13B of the ‘Act’. We do not propose to answer the question whether the 1st respondent was aware of the proceedings which led to Ext.P6, since we are of the view that it would not be necessary at this stage, particularly when he admits – both in his pleadings and testimony – that the petitioner was a divorcee.

12. As matters now stand, Ext.P2 Original Petition has been filed by the 1st respondent unequivocally admitting that there was a valid marriage between him and the petitioner on 28.12.2007, and he has sought for divorce. However, he now says that he came to be aware that Ext.P6 was delivered also on the same day, but later; and consequently that the marriage between him and the petitioner is void/illegal.



13. It is unnecessary for expatiation that, when there was no challenge against Ext.P6, the marriage contracted by the petitioner on 28.12.2007 would stand protected from challenge by any other person, except her first husband; and this is more so when the same has been delivered under the ambit of Section 13B of the 'Act'. When there is no challenge by the petitioner's former husband to her subsequent marriage, we fail to fathom how the 1st respondent can now say that her marriage with him is null and void.

14. That apart, even if we are to find any force in the submissions of Sri.Arun Krishnan, a further aspect arises, namely if the marriage between the parties should be taken to have taken place before Ext.P6 judgment 'took effect'. The contention of the 1st respondent is that since the judgment may have been delivered only after 11 A.M. – it being the time of commencement of work of Civil Courts in Kerala; and the marriage having been allegedly completed by 10 A.M. on 28.12.2007, the latter becomes illegal.



15. We are afraid that this is not the way the time frames are to be construed for judgments to come into effect; and we do not need to say further because, Sri.Arun Krishnan – to a pointed question from this Court – conceded that Ext.P6 would have to be reckoned in law to have taken effect from the commencement of the day it was delivered, being 28.12.2007.

16. Nevertheless, we deem it necessary to speak on this and clear any doubt that may be cast on when a judgment begins to operate.

17. Every judgment, as soon as it is delivered, becomes the operative pronouncement of the Court. Order XX Rule 1 of Code of Civil Procedure (CPC) mandates that judgments and orders be delivered in Open Court. Such judgments or orders become effective as soon as they are dated and signed by the Judge/s. Pertinently, the period of limitation prescribed for preferring Appeal or Revision – as the case may be – starts running from such date and not from the time of actual delivery of the



judgment. Incontestably, Rule 3 of Order XX of the CPC requires every judgment to be dated and signed by the Judge/s at the time of pronouncing it; while, Rule 7 thereof prescribes the decree to bear the date on which the judgment was delivered. No judgment or decree statutorily requires to carry an endorsement of the time it was delivered, since no law provides for it. Ineluctably, therefore, once the judgment is pronounced/delivered, it takes effect immediately and operates from the commencement of the day it was so pronounced or delivered.

18. In such scenario, we fail to comprehend why the learned Family Court should have allowed the amendments, particularly when we find favour with the submissions of Sri.Johnson Gomez that, by allowing the same, there would be two sets of reliefs conflicting with each other, but not sought as alternatives. The first set, which is the original set, seeks divorce on the basis of marriage being valid; while, the second one, as is proposed to be amended, impels a plea for the marriage to be



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declared to be void. Ext.P3 application does not seek amendments to be as alternative reliefs, but as substantive prayers; but without deleting the earlier ones. Furthermore, the pleadings in the Original Petition are also left untouched, though additional pleadings are sought to be introduced in the manner as seen above; thus creating a scenario of two antipodean streams.

In the afore circumstances, we have little doubt that the learned Family Court ought not to have allowed the application of the 1st respondent for amendment; and resultantly allow this Original Petition and set aside Ext.P5.

Sd/-

DEVAN RAMACHANDRAN,
JUDGE

Sd/-

M.B. SNEHALATHA,
JUDGE

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APPENDIX OF OP (FC) 409/2025

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER DATED 7TH MAY 2021 IN M.C NO297 OF 2017
Exhibit P2	TRUE COPY OF THE OP (HMA) 29 OF 2023 HON'BLE FAMILY COURT, SOUTH PARAVUR
Exhibit P3	TRUE COPY OF THE IA NO/ 9 OF 2025 IN OP (HMA) 29 OF 2023 HON'BLE FAMILY COURT, SOUTH PARAVUR
Exhibit P4	TRUE COPY OF THE OBJECTIONS FILED AGAINST IA NO/ 9 OF 2025 IN OP (HMA) 29 OF 2023 HON'BLE FAMILY COURT, SOUTH PARAVUR
Exhibit P5	CERTIFIED COPY OF THE ORDER DATED 26.6.2025 IN IA NO/ 9 OF 2023 IN OP (HMA) 29 OF 2023 HON'BLE FAMILY COURT, SOUTH PARAVUR
Exhibit P6	TRUE COPY OF JUDGMENT OF THE HON'BLE FAMILY COURT DATED 28.12.2007 IN OP(HMA) 801 OF 2017

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