



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

FRIDAY, THE 12<sup>TH</sup> DAY OF JULY 2024 / 21ST ASHADHA, 1946

OP (FC) NO. 223 OF 2024

OP NO.2174 OF 2020 OF FAMILY COURT, THRISSUR

PETITIONER(S)/RESPONDENT/RESPONDENT

SUNEESH BABU, AGED 37 YEARS  
S/O. MUHAMMED, ALIKKAPARAMBAN HOUSE, P.O.,  
NADUVATH, THIRIVALIVLLAGE. NILAMBUR THALUK,  
REPRESENTED BY POWER OF ATTORNEY NAFFESA. AGED 61  
YEARS, W/O. MUHAMMED, ALIKKAPARAMBAN HOUSE. PO  
NADUVATH, THIRUVALI VILLAGE,, PIN - 676123

BY ADV CHERIAN MATHEW POOTHICOTE

RESPONDENT(S)/PETITIONERS/PETITIONERS

- 1 MANEESHA, AGED 31 YEARS  
D/O. SHAHIRA, KALLARAKKAL PADUNGAL HOUSE, HAIIVAR  
PALLI. KRISHNAPURAM, KALATHODE VILLAGE, OLUKKARA  
P.O, THRISSUR TALUK, THRISSUR DISTRICT., PIN -  
680005
- 2 AFYAN, AGED 14 YEARS, S/O. SUNEESH BABU,  
REPRESENTED BY THE GUARDIAN MOTHER, KALLARAKKAL  
PADUNGAL HOUSE, HAJIYAR PALLI, MKALATHODE PALLI,  
KRISHNAPURAM, VILLAGE, OLLUKKARA P.O, THRISSUR  
TALUK, THRISSUR DISTRICT, PIN - 680005
- 3 AFRAS, AGED 10 YEARS  
S/O SUNEESH BABU, REPRESENTED BY GUARDIAN AND  
MOTHER MANEESHA, KALLARAKKAL PADUNGAL HOUSE.  
HAIIVAR PALLI. KRISHNAPURAM, KALATHODE VILLAGE,  
OLUKKARA P.O, THRISSUR TALUK, THRISSUR DISTRICT.,  
PIN - 680005

BY ADV RESMI A.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON  
12.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



C.R.

**DEVAN RAMACHANDRAN  
&  
C.PRATHEEP KUMAR, JJ.**

-----  
OP(FC)No.223 of 2024  
-----

Dated : 12<sup>th</sup> July, 2024

**JUDGMENT**

C.Pratheep Kumar, J.

1. This is an original petition filed by the petitioner in I.A.6/2023 in O.P.2174/2020 on the file of the Family Court, Thrissur, against Ext.P1 order dismissing the above application for joint trial of the above OP along with M.C.86/21.
2. The petitioner herein is the husband of the 1<sup>st</sup> respondent and respondents 2 and 3 are the minor children born to them. The above OP was filed by the respondents against the petitioner for return of gold, household articles and for past maintenance. They have filed MC 86/2021 seeking future maintenance from the petitioner herein. He has filed Ext.P3 application before the Family Court praying for joint trial of the above OP as well as the MC case. However, as per Ext.P1 order, the learned Family Court Judge dismissed the above application. Aggrieved by the above order, he preferred this OP.
3. According to the learned counsel for the petitioner, the subject matter in dispute and the evidence to be let in the OP as well as the MC case are more or less the same and as such, a joint trial of the two cases



will save much judicial time and energy. Therefore, according to him, the impugned order dismissing the application for joint trial is liable to be interfered with. The learned counsel for the respondents has no serious objection to the above submission made by the learned counsel for the petitioner.

4. Now the points that arise for consideration are as follows :

1) *Whether the Family Court has power to order joint trial of an original petition and an MC case for maintenance filed under S.125 Cr.P.C.?*

2) *Whether Ext.P1 order dismissing I.A.6/2023 is liable to be interfered with ?*

5. The point :- The parties are same in both the cases. In OP 2174/2020 the reliefs claimed are for return of gold, household articles and past maintenance. In MC 86/2021, the relief claimed is future maintenance. The question of maintenance is a common issue involved in both these cases. Therefore, with regard to the claim for maintenance made by the respondents, the evidence to be let in and witness to be examined by both sides in these cases are identical. In the above circumstances, joint trial of the above two cases will save much judicial time and energy, as contended by the learned counsel for the petitioner.

6. The only reason stated by the learned Family Court Judge while dismissing the joint trial application is that summary proceedings is to be followed in MC case and hence, it will be tried separately.



7. In the decision in **Mukundan v. Dr.Kauyusha, 2013 (2) KLT 981 [2013 (2) KHC 611]**, a Division Bench of this Court had occasion to consider the scope of joint trial of an OP an MC case filed under Section 125 of Cr.P.C. After evaluating various provisions, in paragraph 7 and 8, the Division Bench held that :

*“7. In our view, none of these provisions can be understood as placing an embargo on the Family Court in permitting the joint trial of the different proceedings before it and in fact it was to take care of such multiply proceedings that S.10(3) itself has been incorporated. After all object of the Act is to ensure speedy justice in relation to issues arising out of family related disputes and therefore, the provisions of the Act should be interpreted bearing in mind such laudable objective that are sought to be achieved by the Act. Therefore, the fact that different appellate or revisional remedies have been provided only requires that if a person is aggrieved by any judgment or order, he will have to pursue his remedies as provided in S.19 and that does not mean that S.19 fetters the Family Courts' power to allow joint trial.*

*8. For these reasons, we are of the view that the order passed by the Family Court declining to consolidate M.C.313/2010 along with remaining other proceedings is untenable.”*

8. We are in respectful agreement with the above decision of the



learned Division Bench and as such, Ext.P1 order of the Family Court, dismissing the joint trial application, I.A.6/2023, is liable to be set aside.

9. In the result, this O.P. is allowed. Ext.P1 order of the Family Court, dismissing the joint trial application (I.A.6/2023) is set aside. I.A.6/2023 is allowed. The Family court is directed to conduct joint trial of O.P. 2174/2020 and M.C. 86/2021.

Sd/-

**Devan Ramachandran, Judge**

Sd/-

**C.Pratheep Kumar, Judge**

Mrcs/15.7



APPENDIX OF OP (FC) 223/2024

PETITIONER EXHIBITS

- Exhibit P1                    A TRUE COPY OF THE ORDER PASSED IN IA NO.6  
OF 2023 IN OP 2174/2024 OF FAMILY COURT  
THRISSUR DATED 1/03/2024
- Exhibit P2                    A TRUE COPY OF THE POWER OF ATTORNEY OF  
THE PETITIONER
- Exhibit P3                    A TRUE COPY OF THE PETITION FILED BY THE  
PETITIONER
- Exhibit P4                    A TRUE COPY OF OP PETITION FILED BY THE  
RESPONDENT .
- Exhibit P5                    A TRUE COPY OF THE COUNTER FILED BY THE  
PETITIONER