

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

RPFC.No. 6 of 2012 ()

(ORDER DATED 3-10-2011 IN CMP NO. 853 OF 2011 IN M.C. NO. 348 OF
2009 ON THE FILE OF THE FAMILY COURT, PALAKKAD

REVISION PETITIONER(S):

MANI

AGED 55 YEARS, S/O.KOMBI, KALIPPARA VEEDU
KOTTEKKAD P.O., PALAKKAD.

BY ADV. SRI.P.K.MOHANAN(PALAKKAD)

RESPONDENT(S):

SEENA

AGED 10 YEARS (MINOR), D/O.LATE PUSHPA
NEAR WATER TANK, IRAPPASSERY, KAVILPPAD
PALAKKAD TALUK, (REPRESENTED BY GRANDMOTHER KAMALAM)
KAMALAM, W/O.LATE RAJAN, AGED 60 YEARS
NEAR WATER TANK, IRAPASSERY, KAVILPAD
PALAKKAD DISTRICT, PIN-678012.

R1 BY ADV. SRI.A.R.GANGADAS

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 08-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B. SUDHEENDRA KUMAR, J.

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Dated this the 8th September, 2015

ORDER

The revision petitioner is the counter petitioner in M.C. No. 348 of 2009 on the files of the Family Court, Palakkad. In the said M.C., an ex-parte order was passed on 1-2-2010. Against the said order, the revision petitioner filed CMP 853 of 2011 praying for condoning the delay of 464 days in file the petition for setting aside the ex-parte order. The court below, after considering the relevant inputs allowed the said petition on condition of the petitioner depositing $\frac{3}{4}$ of the arrears of maintenance due at the enhanced rate till the date of the said order. Aggrieved by the said order, this revision petition has been filed.

2. Heard both sides and perused the records.

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3. The learned counsel for the revision petitioner submitted that the revision petitioner was not served with notice before passing the order in the M.C. and in the said circumstances, the petitioner had no knowledge with regard to the order passed by the trial court in the above said MC and consequently, there occurred a delay of 464 days in filing the revision petition.

4. The records would show that notice was sent to the revision petitioner by "Registered Post" before passing the order in the MC. However, the said notice was refused to be accepted by the revision petitioner. In the said circumstances, the above said contention of the revision petitioner cannot be sustained.

5. It is contended by the revision petitioner that the sister-in-law of the revision petitioner was laid up and hence the revision petitioner was in Madras and in the said circumstances, he was unable to receive the notice. However, the registered envelop would show that the revision petitioner was refused to

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accept the notice. In the said circumstances, I do not find any merit in the argument advanced by the learned counsel for the revision petitioner. Eventhough no convincing reason was stated by the revision petitioner, the court below allowed the application for condoning the delay, on condition of the revision petitioner depositing 3/4th of the arrears of maintenance to the minor daughter of the revision petitioner as ordered by the court below to enable the revision petitioner to contest the matter on merit. No circumstance has been brought to my notice to indicate that the order passed by the court below is perverse or incorrect. Having gone through the relevant inputs, I do not find any reason to interfere with the order impugned.

In the result, this Revision Petition (FC) stands dismissed.

**B. SUDHEENDRA KUMAR,
JUDGE.**

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