

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

RPFC.No. 104 of 2012 ()

AGAINST THE ORDER IN MC 939/2010 of FAMILY COURT, MALAPPURAM
DATED 20-04-2012

REVISION PETITIONER/RESPONDENT:

VINODKUMAR AGED 36 YEARS
S/O.SANKARAN, AYILIAM HOUSE
KODAPPALIPADAM, PARAPPANANGADI (PO), MALAPPURAM (DT).

BY ADV. SRI.P.M.RAFIQ

RESPONDENT/PETITIONERS:

JALAJA P.K.
29 YEARS, D/O.PADMANABHAN
PUNNAMPARAMBILKIZHAKKETHIL HOUSE, MANKADA (P.O)
MALAPPURAM(DT) PIN: 679 324.

R BY ADV. SRI.BABU S. NAIR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON
04-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

AV

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.)No.104 of 2012

Dated this the 4th day of December, 2015.

ORDER

The revision petitioner is the respondent in M.C.No.939 of 2010 on the files of the Family Court, Malappuram. The revision petitioner was directed to pay an amount of Rs.3,500/- per month to the respondent herein towards her maintenance. Aggrieved by the said order, this revision petition has been filed.

2. Heard both sides.

3. The revision petitioner would contend that the revision petitioner was having vitiligo and it spread over the body after the marriage, which made the respondent herein to live separately from the revision petitioner. The respondent would contend that she was treated with cruelty by the revision petitioner and it was only due to the cruelty that she was forced to leave the company of the revision petitioner.

4. Both parties adduced evidence. However, the court below did not enter into any finding with regard to the cause for the respondent living separately from the revision petitioner. In other words, the court below should have entered into a finding as to whether there was justification for the respondent for living separately from the revision petitioner, before passing the order impugned. Since no such finding was entered into by the court

below before passing the order impugned, I am of the view that the order impugned cannot be sustained for that reason. In the said circumstances, I am inclined to remit the matter to the court below to consider the matter afresh, in accordance with law.

In the result, the revision petition stands allowed, setting aside the order impugned, and the matter is remitted to the court below to consider the matter afresh in the light of the observations made in this order.

The parties shall appear before the court below on 05.01.2016.

The revision petitioner shall deposit an amount of Rs.1,00,000/- (Rupees One lakh only) before the court below within ten days from the date fixed for the appearance of the parties before the court below towards the arrears of interim maintenance to the respondent. If the amount is deposited, the respondent shall be at liberty to withdraw the same from the court below.

Sd/-
B. SUDHEENDRA KUMAR,
JUDGE