

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

RPFC.No. 105 of 2012 ()

ORDER IN MC 360/2007 OF FAMILY COURT, ERNAKULAM

REVISION PETITIONER(S)/PETITIONER:

SUDHA R.PAI
D/O.RAJENDRA PAI, SOORAJ NIVAS, CC 9/986
MANTHRA ROAD, KOCHI - 2.

BY ADV. SRI.S.SACHITHANANDA PAI

RESPONDENT(S)/ST RESPONDENT:

-
1. SOMANATHA PAI
S/O.NARAYANA PAI, CHIRAKKULAM HOUSE, PARAVOOTHARA MURI
NORTH PARUR P.O. - 683 513.
 2. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031.

R1 BY ADV. SRI.DINESH R.SHENOY
R1 BY ADV. SRI.G.HARIKRISHNAN (TRIPUNITHURA)
R1 BY ADV. SRI.R.V.RAHUL
R BY PUBLIC PROSECUTOR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.105 of 2012

Dated this the 17th day of November, 2015

ORDER

The revision petitioner is the petitioner in M.C.No.360 of 2007 on the files of the Family Court, Ernakulam. The revision petitioner filed the said M.C. under Section 125 Cr.P.C. for maintenance. The court below dismissed the said M.C. 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 is not having any job or source of income for her livelihood. The revision petitioner further contended that the first respondent is conducting a Hardware Shop, earning Rs.20,000/- per month.

4. Before the court below, PW1 was examined for the revision petitioner. RW1 to RW3 were examined and Exts.B1 to B4 were marked for the first respondent herein. Exts.X1 to X3 were also marked.

5. It is not disputed that the revision petitioner is the

wife of the first respondent. It is also not disputed that their marriage was on 11.4.1996. However, the marriage subsisted only till 13.4.1996. After nearly ten years, she filed M.C.No.360 of 2007 before the court below, praying for maintenance. Eventhough the revision petitioner contended that she is not having any job or source of livelihood, the evidence on record including the evidence of RW1 to RW3 coupled with Exts.X1 to X3 would show that she is getting an amount of Rs.2,700/- per month as salary from her employment. RW3 is the employer of the revision petitioner.

Even though the revision petitioner contended that the first respondent is getting Rs.20,000/- per month from his Hardware Shop, the evidence on record would show that he is only a helper in a Hardware Shop, getting only a very small amount as salary. It has been admitted by the learned counsel for the revision petitioner that the revision petitioner re-married on 24.6.2012. It is not discernible as to why the revision petitioner contended before the court that the revision petitioner was not employed even though she was in fact

employed. The court below, after taking into consideration of the entire aspects of the case, found that the revision petitioner is capable of maintaining herself. In the said circumstances, the court below dismissed the claim for maintenance.

No circumstance has been brought to my notice to indicate that the finding by the court below suffers from any infirmity, warranting interference by this Court.

In the result, this RP(FC) stands dismissed.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/17.11.2015

True Copy

PA to Judge