

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

RPFC.No. 144 of 2012 ()

ORDER IN MC 89/2011 OF FAMILY COURT, VADAKARA

REVISION PETITIONER/RESPONDENT:

AYAMU @ ALIKUNJU, AGED 48 YEARS
S/O.ABDULLA, EMBAKKALLU HOUSE
NIDUPPALLI P.O, PUTHOOR TALUK, KARNATAKA STATE

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS/PETITIONERS:

1. SUHARA,, AGED 41 YEARS
W/O. AYAMU @ ALIKUNJU, VALLUPARAMBIL HOUSE, POOZHITHALA
P.O AZHIYOOR, KOZHIKODE DISTRICT, PIN 673 575.
2. HAIRUNNISSA, AGED 18 YEARS
D/O AYAMU @ ALIKUNJU, VALLUPARAMBIL HOUSE, POOZHITHALA
P.O. AZHIYOOR, KOZHIKODE DISTRICT, , PIN 673 575.
3. MISIRIYA,, AGED 16 YEARS
D/O.AYAMU @ ALIKUNJU, VALLUPARAMBIL HOUSE, POOZHITHALA
P.O. AZHIYOOR, KOZHIKODE DISTRICT, PIN 673 575.
4. BADARUDHEEN, AGED 11 YEARS
S/O. AYAMU @ ALIKUNJU, VALLUPARAMBIL HOUSE, POOZHITHALA
P.O, AZHIYOOR, KOZHIKODE DISTRICT, PIN 673 575.
(MINOR RESPONDENTS 3 & 4 ARE REPRESENTED BY THEIR MOTHER AND
GUARDIAN 1ST RESPONDENT)

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 12-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No. 144 of 2012

Dated this the 12th day of November, 2015

ORDER

The revision petitioner is the respondent in M.C.No.89 of 2011 on the files of the Family Court, Vatakara. The revision petitioner was directed by the court below to pay ₹1,500/- per month to the first respondent, ₹1,000/- per month each to each of the second and the third respondents, ₹750/- per month to the fourth respondent towards their maintenance.

2. Heard both sides.

3. The status of the first respondent as the wife and the other respondents are the children of the revision petitioner is not disputed.

4. The first respondent would contend that the revision petitioner used to treat her with mental and physical cruelty demanding more gold and money. The revision petitioner was also having suspicion about the chastity of the first respondent and he used to manhandle the first respondent as and when

she talked to any third person. Due to the cruelty, the first respondent was forced to leave the company of the revision petitioner on 5.7.2010 and thereafter the revision petitioner did not maintain the respondents. The first respondent is not having any job or source of income for the maintenance of the respondents. The revision petitioner is getting ₹20,000/-per month from his fruit business at Thalassery. He is also getting an amount of ₹15,000/- per month from his landed properties.

5. The revision petitioner would contend that the revision petitioner did not treat the first respondent with cruelty and that the first respondent had left the company of the revision petitioner on her own volition without any justifying reason. The revision petitioner also contended that he is only a street vendor, getting only around ₹200/- per day after meeting all his expenses.

6. Before the court below, PW1 and PW2 were examined and Exts.A1 and A3 (a) were marked for the respondents herein. RW1 was examined and Exts.B1 to B4(a) were marked for the revision petitioner.

7. PW1 is the first respondent, who had given evidence in tune with the contentions in the petition. The evidence of PW1 is corroborated by the evidence of PW2, who is the son of the first respondent in the wedlock with the revision petitioner. Even though, the revision petitioner produced B3 series and B4 to show that the first respondent had left the house on her own volition, the court below did not believe the same. Ext.B4 is the statement given by the first respondent before the police, wherein also, PW1 stated about the cruelty by the revision petitioner.

8. The court below, after evaluating the oral and documentary evidence adduced by both sides, found that the first respondent was forced to leave the company of the revision petitioner due to the cruelty by the revision petitioner.

9. The revision petitioner does not have a contention that the first respondent is having any job or source of income for her livelihood. PW1 stated that she is not having any source of income for the livelihood of the respondents. RW1 stated that he is getting an amount of nearly ₹200/- per day

from his fruit business on the footpath, after meeting all the expenses. RW1 admitted that he constructed a residential house in the property, which he obtained as his family share. The court below found that the revision petitioner had constructed the house in the property only because the revision petitioner had sufficient income. No material is available before the court to prove the income of the revision petitioner. The court below found that it is the statutory duty of the revision petitioner to maintain the respondents. The minor respondent Nos. 2 to 4 are students. Taking into consideration of the entire facts and circumstances of the case, including the status of the parties, cost of living, the needs of the respondents and the probable income of the revision petitioner, the court below fixed the quantum of maintenance as stated above.

Having gone through the relevant inputs, I do not find any reason to hold that the quantum of maintenance awarded by the court below is exorbitant or unreasonable. No circumstance has been brought to my notice to indicate that

the order passed by the court below suffers from any infirmity, warranting interference by this court. In the said circumstances, I find no reason to interfere with the order impugned.

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

However, the revision petitioner is granted four months to pay the arrears of maintenance.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/12.11.2015

True Copy

PA to Judge