

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

RPFC.No.128 of 2010 ()

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AGAINST THE ORDER IN MC 258/2008 of FAMILY COURT,ERNAKULAM
DATED 30-12-2009**

REVISION PETITIONER :

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OUSEPH, S/O.POULO, AGED 82 YEARS,
PAYYAPPILLI HOUSE, KURUMASSERI KARA
PARAKKADAVU VILLAGE, ALUVA TALUK.**

BY ADV. SMT.ANITHA RAVINDRAN

RESPONDENT :

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POULOSE,AGED 49 YEARS,S/O.OUSEPH,
PAYYAPPILLI HOUSE, KURUMASSERI KARA,
PARAKKADAVU VILLAGE, ALUVA TALUK.**

**THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 30-03-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

VS

P.D.RAJAN, J

R.P.(FC).No.128 of 2010

Dated this the 30th day of March, 2015

ORDER

This revision petition is filed against the order in M.C.No.258/2008 of the Family Court, Ernakulam. The petitioners are the father and mother of the respondent, who is their eldest son. Apart from the respondent, the petitioner has four other children. The respondent is residing in the house situated in the property allotted by the petitioner as per the family partition and sufficient means to pay the amount. The mother of the respondent is laid up and unable to move. In the circumstances, they approached the Family Court for getting maintenance at the rate of Rs.2,000/- and Rs.3,000/- per month. The respondent denied the allegation and contended that the father has sufficient property in his possession. The respondent is ready and willing to contribute his share towards maintenance of the petitioner. He is suffering from Spondylosis and undergoing treatment for the last several years.

2. To substantiate the claim for maintenance, the petitioner was examined as PW1 and marked Ext.A1. The respondent was also examined as RW1 and marked Exts.B1 to B3. The Family Court, after analysing the evidence on record, directed the respondent to pay maintenance allowance at the rate of Rs.1,000/- per month to the second petitioner from 19.8.2008 and the claim made by the petitioner was dismissed.

3. The learned counsel appearing for the revision petitioner contended that, he is an aged man and the Family Court failed to appreciate the means of the respondent. Respondent is an able bodied man and having timber business, poultry farm and other business. Apart from that, he is having agricultural properties and getting income from that properties. I have perused the oral evidence adduced in this case. It is clear from the oral evidence of PW1 that he need care and protection from his son. PW1 has also four other children, but he has not made any claim from them. Considering the averments in the petition, I am of the view that, the respondent is the

eldest son of of revision petitioner and he is bound to pay maintenance allowance to his father. Lower court already awarded Rs.1,000/- to the mother in the above M.C. If that be the position, I set aside the order of the Family Court, rejecting the maintenance allowance to the revision petitioner father. Hence, this revision petition is allowed. The respondent is directed to pay Rs.1,000/- to his father as maintenance under Section 125 of the Cr.P.C. from the date of the petition itself.

In the result, this revision petition is allowed.

Sd/-
P.D.RAJAN
JUDGE

VS

/TRUE COPY/

PATO JUDGE