

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

RPFC.No. 272 of 2012 ()

ORDER IN MC 297/2005 OF FAMILY COURT, KOLLAM DATED 07-07-2012

REVISION PETITIONER/ PETITIONER:-:

HUSSAIBA BEEVI, AGED 57 YEARS,
D/O.MYDHEEN KUNJU, THOPPIL VEEDU, KAYYALAKKAL
KOLLOORVILA DIVISION, ARAFA NAGAR - 21, KOLLAM
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
SIYAD KHAN, S/O.IBRAHIM PILLAI
RESIDING AT THOPPIL VEEDU, KAYYALACKAL
KOLLOORVILA DIVISION, ARAFA NAGAR - 21, KOLLAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT/RESPONDENT:-:

IBRAHIM PILLAI, AGED 66 YEARS
S/O.MYDHEEN BABA, SUMAYYA HOUSE, KAREDUMURIYIL
VILAPPIL VILLAGE, THIRUVANANTHAPURAM - 695 543.

R1 BY ADV. SMT.M.HEMALATHA

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 27-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.272 of 2012

Dated this the 27th day of October, 2015.

ORDER

The revision petitioner is the petitioner in M.C.No.297 of 2005 on the files of the Family Court, Kollam, who in this revision petition challenges the order passed by the court below dismissing M.C.No.297 of 2005 filed by the revision petitioner under Section 125 Cr.P.C.

2. Heard both sides.

3. The revision petitioner contended that the respondent married the revision petitioner on 8.06.1969 as per the Muslim Rites and Ceremonies. The revision petitioner would contend that the revision petitioner was deserted by the respondent in the year 2002 and thereafter, he neglected to maintain the revision petitioner. The revision petitioner is not having any source of income for her maintenance. The respondent is getting an amount of ₹3,000/- per month from his crusher unit and an amount of ₹6,000/- per month from his

property. He is also getting an amount of ₹25,000/- from his agriculture.

4. The respondent filed objection stating that he is not having any income as stated by the revision petitioner. He admitted the marriage. However, he said that in July, 1969 itself, the respondent divorced the revision petitioner by pronouncing 'Talak'. The respondent married another lady in which he is having five children to be looked after. His wife is also sick. One of his daughters is having mental illness. The respondent is having only an income of ₹4,000/- per month.

5. PW1 is the power of attorney holder of the revision petitioner and DW1 is the respondent. PW1 stated about the marriage of the petitioner with the respondent. PW1 is the son of the revision petitioner. He stated that he had no occasion to see the revision petitioner living together with the respondent. Therefore, the case of the revision petitioner that the revision petitioner and the respondent lived together as husband and wife till the year 2002, appears to be incorrect. The evidence

of DW1 would show that he divorced the petitioner by pronouncing 'Talak' in the year 1969 itself.

6. Even though the revision petitioner contended that she is not having any source of income, the revision petitioner did not come forward to give evidence with regard to the same. It was admitted by PW1 that the revision petitioner is having a house of her own, situated in 26 cents of property. DW1 stated that he is not having sufficient income even to maintain his second wife and five children. The court below observed that the reluctance of the revision petitioner to adduce evidence, would show that the petition was filed without any bonafides. It is not discernible as to why the revision petitioner did not come forward to give evidence if she was incapable of maintaining herself. Having gone through the relevant inputs, the court below found that the revision petitioner failed to establish that the revision petitioner was unable to maintain herself and that the respondent refused to maintain her without any valid reason and in the said

circumstances, the court below dismissed the petition.

Having gone through the relevant inputs, I do not find any reason to hold that the order impugned suffers from any infirmity warranting interference by this Court.

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

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

ScI/27.10.2015

True Copy

PA to Judge