

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

RPFC.No. 310 of 2010 ()

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AGAINST THE ORDER IN MC 298/2008 of FAMILY COURT, PALAKKAD
DATED 25.05.2010
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REVISION PETITIONER(S)/RESPONDENT :

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K.K.SIVADASAN, S/O.LATE K.C.KESAVAN
VARIYAMPARAMBIL VEEDU, MEPPARMBU,
VADAKKANTHARA AMSOM
PALAKKAD TALUK.**

BY ADV. SRI.P.K.MOHANAN (PALAKKAD)

RESPONDENT(S)/PETITIONERS :

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- 1. S.KRISHNALATHA, W/O. K.K.SIVADASAN
MUKRAMKAD VEEDU, KOTTEKKAD, PALAKKAD TALUK 678 732.**
 - 2. SARATH, AGED 12 YEARS, (MINOR)
S/O.SIVADASAN, MUKRAMKAD VEEDU, KOTTEKKAD
PALAKKAD TALUK 678 732.**
 - 3. ARYA , AGED 6 1/2 YEARS, (MINOR)
D/O. SIVADASAN, MUKRAMKAD VEEDU, KOTTEKKAD
PALAKKAD TALUK 678 732.**

**(REPENDENTS 2 AND 3 ARE REPRESENTED BY
MOTHER GUARDIAN THE IST RESPONDENT S.KRISHNALATHA)**

R1 TO R3 BY ADV. SRI.JACOB SEBASTIAN

**THIS REV.PETITION (FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 18-11-2015, ALONG WITH R.P.(FC) NO.39/2014, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:**

AMV

B.SUDHEENDRA KUMAR, J.

.....
R.P.(F.C) Nos.310 of 2010 & 39 of 2014
.....

Dated this the 18th day of November, 2015

ORDER

R.P.(F.C) No.310 of 2010 was filed by the respondent and R.P.(F.C) No.39 of 2014 was filed by the petitioners in M.C.No.298 of 2008 on the files of Family court, Palakkad. The revision petitioner in R.P.(F.C) No.310 of 2010 challenges the order passed by the Family court directing him to pay Rs.1,500/- (Rupees One thousand five hundred only) per month to the 2nd petitioner and Rs.1,000/- (Rupees One thousand only) per month to the 3rd petitioner before the court below towards their maintenance.

2. For the sake of convenience, the parties are referred to in this order as per their status before the court below. In R.P. (F.C) No.39 of 2014, the revision petitioners challenge the order passed by the court below declining to grant maintenance to the 1st petitioner.

3. Heard both sides.

4. The Court below declined to grant maintenance to the 1st petitioner on the reason that the pleadings in the petition

regarding the cruelty are vague. However, I have gone through the averments in the petition and I am satisfied that the averments regarding the cruelty are not vague.

5. The learned counsel for the respondent has submitted that there is a finding by the Civil court that there was no sufficient cause for the 1st petitioner to leave the company of the respondent. However, no such document was produced before the court to prove the same. The learned counsel for the respondent pleaded for granting an opportunity to prove the same.

6. Having gone through the relevant inputs, I am of the view that an opportunity can be granted to the respondent to prove that there was no sufficient justification for the 1st petitioner to leave the company of the respondent.

7. As regards the maintenance to the children, the respondent contended that he is not having any job or source of income for granting maintenance. PW1 stated that the respondent is having the capacity to maintain the petitioners. According to PW1, the respondent is getting Rs.5,000/- per month as rent. However, there is no evidence that the

respondent is getting so much amount as rent per month. The respondent is a Gulf returnee. Ext.P25 shows that the respondent is having two shop rooms. The court below relied on Exts.P24 to P27 to find that the respondent had the source of income to purchase properties. Taking into consideration of the entire facts and circumstances of the case and the probable income of the respondent, the court below directed the respondent to give Rs.1,500/- per month to the 2nd respondent and Rs.1,000/- per month to the 3rd respondent towards their maintenance. The said amount is not exorbitant or unreasonable. In the said circumstances, the quantum of amount awarded by the court below does not warrant any interference by this Court.

8. In the result, R.P.(F.C) No.39 of 2014 stands allowed and R.P.(F.C) No.310 of 2010 stands dismissed, setting aside the order impugned to the extent it dismissed the application as regards the 1st petitioner. The matter is transmitted to the court below to consider afresh as to whether the 1st petitioner is entitled to maintenance from the respondent, in accordance with law, affording reasonable opportunity to both sides to

substantiate their contentions. The order of the court below awarding maintenance to the 2nd and the 3rd petitioners stands confirmed. The parties shall appear before the court below on 29.12.2015.

This being a matter of 2008, the court below is directed to dispose of the matter, as expeditiously as possible and at any rate, within a period of four months from the date of receipt of a copy of this order. The revision petitioner is granted one month to pay the entire arrears.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

AMV/20/11/15

/TRUE COPY/

P.A.TO JUDGE