

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. 383 of 2010 ()

MC 656/2009 of FAMILY COURT, MALAPPURAM

REVISION PETITIONER(S)/REVISION PETITIONER/RESPONDENT:

**SHAMSUDEEN.K,S/O.MOIDEEN,KOTHODI HOUSE,
NADAPPARAMBU, POOKOTTUR POST, MALAPPURAM
REPRESENTED
BY HIS POWER OF ATTORNEY HOLDER ANWAR SADIQ
S/O.MOIDEENKUTTY, CHOLAKUNNEL HOUSE, POOKKOTTUR.P.O
MALAPPURAM DISTRICT - 676 517**

**BY ADVS.SRI.SANTHEEP ANKARATH
SMT.N.N.PRASEEDA**

RESPONDENT(S)/PETITIONERS:

- 1. KHADEEJA ALIKKAL,D/O.ALAVI,
ALEEKKAL HOUSE, MANCHAKKAL 4 CENT COLONY
CHERPULASSERY POST-679503, PALAKKAD DISTRICT.**
- 2. MUHAMMED FAIRUS,AGED 16 YEARS(MINOR),
REPRESENTED BY MOTHER AND GUARDIAN IST RESPONDENT
KHADEEJA ALIKKAL.**
- 3. FATHIMA FARSANA,AGED 13 YEARS(MINOR),
REPRESENTED BY MOTHER AND GUARDIAN IST RESPONDENT
KHADEEJA ALIKKAL.**

R,R1 TO 3 BY ADV. SRI.K.SHIBILI NAHA

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

Imp

P.D.RAJAN, J

R.P.(FC).No.383 of 2010

Dated this the 30th day of March, 2015

ORDER

The revision petitioner is the respondent in M.C.No.656/2009 on the file of the Family Court, Malappuram, which was filed under Section 125 of the Code of Criminal Procedure. The above petition was filed by Khadeeja Alikkal, who is the wife of the revision petitioner, on behalf of her minor children. The marriage between the revision petitioner and the respondent was solemnized on 16.8.1992, as per the customary rights and two children were born in the said wed-lock. The revision petitioner is working in Sharjah Airport and getting Rs.40,000/- per month. He is also having landed property, but he failed to maintain his wife and children. In the circumstance, wife preferred the above M.C., for claiming maintenance.

2. To prove the averments, the respondent was examined as PW1 and the Power of Attorney Holder of the revision petitioner was examined as RW1. The family

court, after analyzing the oral evidence of PW1 and RW1, directed the revision petitioner to pay an amount of total maintenance at the rate of Rs.7,500/- (Rs.4,000/- to the first respondent, Rs.2,000/- to the second respondent and Rs.1,500/- to the third respondent) per month. Hence, the husband approached this Court, with this revision petition.

3. The learned counsel appearing for the revision petitioner contended that, the Power of Attorney holder of the revision petitioner was examined as RW1, who is the nephew of the revision petitioner herein. The trial court without giving sufficient opportunity to contest the case and without appreciating the evidence in the counter affidavit, directed the revision petitioner to pay a huge amount as maintenance to the respondent, for which the revision petitioner is getting only a meagre amount from his avocation.

4. But the learned counsel appearing for the respondent strongly resisted the above contention and contended that, he is getting high income from his job in gulf country. There is no illegality or impropriety in the

findings of the court below.

5. In order to ascertain the illegality or irregularity, I have perused the oral evidence of PW1. In her evidence, she pointed out that the revision petitioner is working in Sharjah Airport and getting Rs.40,000/- per month. He has also purchased landed property having more than 25 cents. After the birth of two children, he failed to maintain the respondent and the children. The children need good education and good food. Her income is not sufficient to maintain them. The oral evidence of RW1 was also considered by the Family Court. The Power of Attorney Holder denied the allegation of PW1, but the Family Court granted Rs.4,000/- to the first respondent, Rs.2,000/- to the second respondent and Rs.1,500/- to the third respondent as maintenance allowance. I find no illegality in the above order. That is only to be confirmed.

6. The learned counsel appearing for the revision petitioner contended that, now the second and third respondent attained majority and they have sufficient capacity to maintain themselves. If that be the

position, the maintenance amount of Rs.7,500/- granted by the Family Court is to be modified. But the learned counsel appearing for the first respondent contended that if there is any change in the circumstances, the revision petitioner can approach the Family Court for modifying the order, by adducing fresh evidence.

7. In the light of the above submission, I am of the opinion that if the children attained majority and sufficient means to maintain themselves, the revision petitioner can approach the Family Court for substantiating that contention for getting any modified order.

There is no merit in this petition and dismissed accordingly.

Sd/-
P.D.RAJAN
JUDGE

VS

/TRUE COPY/

PA TO JUDGE