

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

RPFC.No. 420 of 2010 (G)

AGAINST THE ORDER IN MC 292/2002 of FAMILY COURT,THRISSUR DATED
28-08-2010

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REVISION PETITIONER/RESPONDENT:

RAMACHANDRAN, S/O. PATTATH SANKUNNY,
THEKKE THORAVU DESOM, THORAVU VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.V.BINOY RAM

RESPONDENT(S)/PETITIONERS:

1. SUJAYA, D/O. THENGUVALAPPIL SANKARANARAYANAN,
MADAKKATHARA VILLAGE, DESOM,
THRISSUR TALUK-680 651.

2. ATHIRA, AGED 14 YEARS, MINOR,
REP. BY MOTHER SUJAYA, MADAKKATHARA VILLAGE, DESOM,
THRISSUR TALUK-680651.

R1-2 BY ADV. SRI.P.G.SURESH
R1-2 BY ADV. SRI.C.V.MANUVILSAN
R1-2 BY ADV. SRI.RAJAN VISHNURAJ

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 09-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OKB

K.HARILAL, J.

R.P(FC). No.420 of 2010

Dated this the 9th day of June, 2015.

O R D E R

The revision petitioner is the respondent in M.C.No.292/02 of the Family Court, Thrissur. The above M.C. was filed by the respondents herein, who are the wife and daughter of the petitioner, claiming maintenance allowance from the petitioner. The court below directed the revision petitioner to pay monthly maintenance allowance at the rate of Rs.1,000/- to the first respondent and Rs.500/- to the second respondent from the date of petition till October 2007 and at the rate of Rs.1,500/- per month to the first respondent and Rs.1,000/- per month to the second respondent from October 2007 onwards. The legality of the entitlement of maintenance allowance and the correctness of the quantum fixed by the court below are under challenge in this revision petition.

2. Going by the impugned order, it is seen that

the marital status of the first respondent and the paternity of the second respondent are not challenged. According to the first respondent, she has no job or income and she is unable to maintain herself. But the petitioner failed to maintain them and refused to pay maintenance allowance to them from 2.7.1998 onwards and thereafter the respondents are residing along with their parents and they are depending upon them; whereas the petitioner is working in gulf and his monthly salary is Rs.25,000/-. Besides, he has landed property and he earns Rs.15,000/- as monthly income from the said property.

3. The revision petitioner resisted the said contention and contended that the first respondent is working in a kuri company and she is getting monthly income of Rs.3,000/- from the kuri company. Further, it is contended that, though he had employed abroad, he has returned from gulf in 1998 and thereafter he has no source of income. Since the first respondent is able enough to maintain herself and the second respondent, he is not liable to pay maintenance allowance to the

respondents.

4. Admittedly, there is no evidence to show that he has paid maintenance allowance after 1998. Therefore, the court below can be justified in finding that he is liable to pay maintenance allowance to them.

5. Coming to the quantum, though he contended that the first respondent is working in a kuri company and getting Rs.3,000/- per month, no evidence had been adduced to substantiate the said contention. In the absence of any evidence, it can be safely concluded that the first respondent is unable to maintain herself and the second respondent, as she has no job at all. The revision petitioner has no case that he is physically disabled or unhealthy or incapacitated to do work so as to earn livelihood for his family. After considering the earning capacity of the revision petitioner in detail, the court below arrived at a finding that he is able enough to earn Rs.7,000/- to 8,000/- per month. The husband is liable to pay maintenance allowance to his family in accordance

with their day-to-day requirements. Considering the steep increase in the living cost due to inflation, I find that the quantum of maintenance allowance determined by the court below is just and proper and no interference is called for. Consequently, this R.P (FC) is dismissed.

Sd/-
K. HARILAL, JUDGE

okb.