

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

RPFC.No. 30 of 2011 ()

MC 942/2009 of FAMILY COURT, MALAPPURAM DATED 10-08-2010

REVISION PETITIONER/RESPONDENT:

ALI ASKAR, S/O. USMAN HAJI,
PAROKKOTTIL HOUSE, EDAPPATTA AMSOM
VELLIYANCHERRY DESOM, PERINTHALMANNA TALUK.

BY ADV. SRI.K.M.SATHIANATHA MENON

RESPONDENT(S)/PETITIONERS:

1. FEBINA, D/O. V.M.MUHAMMED,
VELLAYOOR MADATHIL HOUSE, ERANHIKUNNU
CHATHANGOTTUPURAM POST, VANDOOOR VIA, MALAPPURAM
DISTRICT-673131. NILAMBUR TALUK, VANDOOOR POLICE
STATION LIMIT.

2. ASMILSHA MUHAMMED, AGED 14 YEARS, (MINOR)
S/O. ALI ASKAR, REPRESENTED BY HIS GUARDIAN
MOTHER 1ST RESPONDENT FEBINA.

3. FATHIMATH ASMIYA, AGED 9 YEARS
(MINOR), D/O. ALI ASKAR, REPRESENTED BY HIS
GUARDIAN-MOTHER 1ST RESPONDENT FEBINA.

R1 - R3 BY ADV. SRI.BABU S. NAIR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 12-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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K.HARILAL, J.

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R.P.(F.C) No.30 of 2011

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Dated this the 12th day of June, 2015

ORDER

The revision petitioner is the respondent in M.C. No. 942 of 2009 on the files of the Family Court, Malappuram. The above M.C. was filed by the respondents herein, who are the wife and daughters of the petitioner, under Section 125 of the Code of Criminal Procedure, claiming maintenance allowance from the petitioner. The court below directed him to pay monthly maintenance allowance @ ₹3,000/- to the 1st respondent, ₹1,500/- to the 2nd respondent and ₹1,000/- to the 3rd respondent. The legality of the entitlement of maintenance allowance and the correctness of the quantum of amount fixed by the court below are under challenge in this revision petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. Both counsel appearing for the parties advanced arguments in support of the respective contentions raised in the M.C. According to the 1st respondent, she is the legally wedded wife of the petitioner and the respondents 2 and 3 are the children born in that wedlock.

4. It is alleged that the petitioner has neglected to maintain them and refused to pay maintenance allowance from 2009 onwards. The 1st respondent has no job or income and she is unable to maintain herself and the other respondents. Respondents 2 and 3 are minor school going children; but the petitioner is a businessman as well as a K.S.E.B contractor and he is getting ₹1,50,000/- per month.

5. Per contra, the petitioner, though admitted the marital status of the 1st respondent and the paternity of respondents 2 and 3, denied the right to get maintenance allowance. According to him, he does not have income of ₹1,50,000/- as shown in the M.C. Now, he has no job or any sources of income. According to him, he stopped

business two years ago.

6. Going by the impugned order, it has come out in evidence that the evidence given by the petitioner himself suggests that his father has about 30 acres of landed property with considerable income. The evidence given by his wife is that the petitioner is managing those properties and has lucrative income therefrom. Though the petitioner denied the allegation that he is a businessman-cum-contractor of K.S.E.B, after analysing the entire evidence on record, the court below has come to a conclusion that the petitioner is a businessman-cum-contractor and he has sufficient capacity to spare reasonable amount for his wife and children. During the course of evidence, he himself admitted that he is healthy and he has no physical incapacity or disability to do work. He himself admitted to the extent he was a K.S.E.B contractor.

7. Having analysed the entire evidence, it seems that the court below was satisfied of the financial capacity of the

petitioner. "Maintenance" under Section 125 means and includes provision for food, shelter, cloths, medical attendance, educational expenses etc. Respondents 2 and 3 are school going children and substantial amount is required for the educational expenses. The wife and children have the right to claim maintenance allowance in accordance with their family status, standard of life and day to day requirements.

8. In this analysis, I find that the quantum of maintenance allowance @ ₹3,000/- to the 1st respondent, ₹ 1,500/- to the 2nd respondent and ₹1,000/- to the 3rd respondent determined by the court below is reasonable, just and proper. No interference is called for under revisional jurisdiction.

The revision petition is dismissed accordingly.

Sd/-
K.HARILAL, JUDGE.

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P.A to Judge