

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. 38 of 2011 ()

MC 193/2010 of FAMILY COURT, KOTTAYAM AT ETTUMANOOR
DATED 29-09-2010

REVISION PETITIONER/RESPONDENT:

AJU P.EASOW, AGED 31 YEARS, PERUMPAL,
MEENADOM P.O., KOTTAYAM DISTRICT 686516.

BY ADV. SRI.JOSE PALLATTUKARAN

RESPONDENT(S)/PETITIONERS:

1. ANNAMMA @ BEENA, AGED 28 YEARS,
D/O.KURIAN, VAYALATTU HOUSE, PUTHUPPALLY
KOTTAYAM. PIN - 686 001.

2. ABIN P.EASOW, AGED 2½ YEARS,
S/O.ANNAMMA @ BEENA, AGED 28 YEARS, D/O.KURIAN
VAYALATTU HOUSE, PUTHUPPALLY, KOTTAYAM. MANARCADU
POLICE STATION REPRESENTED BY MINOR'S MOTHER
ANNAMMA @ BEENA, AGED 28 YEARS, D/O.KURIAN
VAYALATTU HOUSE, PUTHUPPALLY, KOTTAYAM - 686 001.

R1 BY ADV. SRI.P.M.HABEEB

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

STU

K.HARILAL, J.

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R.P.(F.C) No.38 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.193/2010 on the files of the Family Court, Kottayam, filed by the respondents herein, who are the wife and son of the petitioner, claiming maintenance allowance under Section 125 of the Code of Criminal Procedure. According to the respondents, the petitioner has failed to maintain them and refused to pay maintenance allowance from 9.12.2008 onwards. The 1st respondent has no job or any sources of income and she is unable to maintain herself; whereas the petitioner is a driver by profession and employed in a stage carriage. He is getting ₹15,000/- per month as salary. That apart, he is having one acre rubber plantation and thereby getting ₹20,000/- per month. The petitioner admitted the marital status of the 1st respondent

and the paternity of the 2nd respondent; but he contended that there is no reasonable cause to live separately without forfeiting the right of maintenance. He admitted that he is a driver by profession and employed in a tipper lorry. It is also contended that the 1st respondent is a tailor by profession and she is getting ₹10,000/- per month. After considering the rival pleas and evidence on record, the court below directed the petitioner to pay maintenance allowance @₹1,000/- each to the respondents. The entitlement of maintenance allowance and the correctness of the quantum determined by the court below are under challenge in this revision petition.

2. Heard the learned counsel for the revision petitioner, who argued in extenso assailing the findings whereby the court below determined the entitlement of maintenance allowance in favour of the respondents.

3. The marital status of the first respondent and the paternity of the second respondent are not disputed.

Though the petitioner has contended that the first respondent is a tailor by profession, no evidence has been adduced to substantiate the said contention. In cross-examination, the petitioner himself admitted that he is living separately from 9.12.2008 onwards and he never gave any maintenance allowance to the wife and children. O.P.No.257/09 filed by him for restitution of conjugal rights has been dismissed. In the above view of the matter, I do not find any illegality on the finding that the respondents are entitled to get maintenance allowance from the petitioner.

4. Coming to the quantum of maintenance allowance, the petitioner himself admitted that he is a driver by profession employed in a tipper lorry. He has no case that he is unhealthy or physically disabled or incapacitated to do work. A husband is liable to pay maintenance allowance to his wife and children in accordance with their living status, standard of life, day-to-day needs, living cost and his

income. In this analysis, I find that the determination of the quantum of maintenance allowance @ Rs.1000/- per month is just and reasonable warranting no interference.

This R.P(FC) is dismissed.

Sd/-
K.HARILAL, JUDGE.

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P.A to Judge