

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

RPFC.No. 85 of 2011 ()

(Cr1.M.P.1634/2010 IN MC 214/2009 of FAMILY COURT, KASARAGOD)

REVISION PETITIONER/RESPONDENT:

MOHAMMED KUNHI, AGED 40 YEARS,
S/O.AHAMMED MONU, ARIKKADY, KADAVATH,
KUMBLA.P.O, KASARAGOD DISTRICT.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENT(S)/PETITIONERS:

1. KHADEEJA,AGED 38 YEARS,D/O.LATE RAJAB,
ARIKKADY, KADAVATH, KUMBLA.P.O.,
KASARAGOD DISTRICT.

2. SHIYAB,AGED 13 YEARS (MINOR REPRESENTED
BY HIS MOTHER IST RESPONDENT) .

R1 BY ADV. SRI.M.RAMESH CHANDER

R1 BY ADV. SRI.ANEESH JOSEPH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 22-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

R.P(FC). No.85 of 2011

Dated this the 22nd day of June, 2015.

O R D E R

The petitioner is the respondent in CrI.M.P. No.1634/10 in M.C.No.214/09 on the files of the Family Court, Kasaragod. The above CrI.M.P. was filed by the respondents 1 and 2, who are the wife and minor son respectively, of the revision petitioner to realise the amount awarded in the above M.C. whereby the petitioner was directed to pay maintenance allowance @ Rs.750/- each to the respondents 1 and 2. In the above CrI.M.P. they claimed Rs.18,000/- as the arrear due to them for 12 months. The petitioner filed a counter stating that he has no means to pay the said amount. After considering the contentions raised by the petitioner, the court below allowed the CrI.M.P. by the impugned order, which is now under challenge.

2. Going by the impugned order it is seen that the only contention raised by the revision petitioner is

that he has no means to pay the amount.

3. 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. A healthy able bodied man is presumed to be having sufficient earning capacity. So also means signifies not only movable or immovable property; but also the earning capacity of an able bodied man to do work so as to earn livelihood for his family. According to the decision reported in *Ajithkumar v. Shaima* [2009 (3) KLT 452], 'maintenance' obviously includes provision for food, clothing, education, medical attendance, etc. The husband is liable to pay maintenance allowance in accordance with the status of his wife and children and their day-to-day requirements. In this analysis, I find that there is no illegality or impropriety in the impugned order under challenge.

This R.P(FC). is dismissed.

Sd/-
K. HARILAL, JUDGE

okb.