

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

RPFC.No. 304 of 2013 ()

MC 113/2010 of FAMILY COURT, ERNAKULAM

REVISION PETITIONER/PETITIONER:

JOSEPH LAIJU, AGED 36 YEARS
S/O.K.J.XAVIER, KOTTAPRAMBU HOUSE, KUMBALANGHI P.O.
KOCHI - 7

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENTS/RESPONDENTS/PETITIONERS/STATE:

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1. MARY LINSK K.S, AGED 29 YEARS
D/O.STANLEY, KANDATHIPARAMBIL HOUSE, KUMBALANGHI P.O.
KOCHI - 7.
 2. RENZO STENSTAUOS,
AGED 9 MONTHS, S/O.MARY LINSK, KANDATHIPARAMBIL HOUSE
KUMBALANGHI P.O., KOCHI -7
REP. BY THE FIRST INFORMATION RESPONDENT
MOTHER AND NEXT FRIEND
 3. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM - 682 031.

R1-R2 BY ADV. SRI.JOHNSON ABRAHAM
R1-R2 BY ADV. SRI.NELSON ABRAHAM
R1-R2 BY ADV. SRI.S.GOPINATHAN
R3 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON
16-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.304 of 2013

Dated this the 16th day of December 2015

O R D E R

The revision petitioner is the respondent in M.C.No.113 of 2010 on the files of the Family Court, Ernakulam. The revision petitioner was directed to pay Rs.1,500/- per month to the 1st respondent and Rs.2,500/- per month to the 2nd respondent towards their maintenance. Aggrieved by the said order, this revision petition has been filed.

2. Heard both sides.

3. When this matter has been taken up for hearing, the learned counsel for the revision petitioner has submitted

that eventhough the revision petitioner had filed M.P. Nos.401 of 2013 and 402 of 2013 for re-opening the evidence and to issue summons to additional two witnesses, the court below passed the order impugned without allowing the said application and thereby deprived the revision petitioner of his opportunity to adduce evidence to prove that the first respondent is employed. It appears from the order impugned that the court below dismissed the said application mainly on the reason that it was a belated application. The court below further found that the application was filed not by the party but by the counsel and hence, it was not maintainable. On the facts and circumstances of the case, I am of the view that it is only just and proper to grant one more opportunity to the

revision petitioner to adduce additional evidence. For the said reason, I am inclined to set aside the order impugned.

In the result, this revision petition stands allowed, setting aside the order impugned and the matter is remitted to the court below for fresh consideration of the matter in accordance with law, affording reasonable opportunity to both sides to substantiate their contentions. Both parties shall be at liberty to file fresh application before the court below within five days from the date fixed for the appearance of the parties before the court below, for additional evidence, if any.

This being a matter of the year 2010, the court below is directed to dispose of the matter, as expeditiously as possible and at any rate within two months from the date

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fixed for the appearance of the parties before the court below.

The parties are directed to appear before the court below on 6.1.2016.

The revision petitioner shall deposit Rs.1,00,000/- (Rupees one lakh only) before the court below within one month from today towards the arrears of interim maintenance.

If the amount is deposited, the first respondent shall be at liberty to withdraw the same from the court below.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/17.12.2015

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PA to Judge