

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

RPFC.No. 8 of 2015 ()

(AGAINST THE COMMON ORDER DATED 15.11.2014 IN C.M.P.NOS.743 AND 744
OF 2014 IN M.C.NO.849 OF 2010 ON THE FILE OF THE FAMILY COURT, TIRUR)

REVISION PETITIONER/PETITIONER/RESPONDENT:

SAITHALAVI,
S/O BAVU, MUNNOLIL HOUSE, PUTHUPPALLI.P.O
REPRESENTED BY HIS POWER OF ATTORNEY NAFEESA
W/O.KUNHIMUHAMMED, THEKKINCHUVATTIL HOUSE
MUTTANNUR AMSOM AND DESOM, TIRUR TALUK.

BY ADV. SRI.V.K.SUNIL

RESPONDENTS/RESPONDENTS/PETITIONERS:

1. FATHIMA, D/O.BAVA,
ULLATTIL HOUSE, TIRUR TALUK
PUTHUPPALLY.P.O, TIRUR.
2. NAJILA(MINOR), D/O.FATHIMA
DO-DO-DO-, REPRESENTED BY MOTHER
THE 1st RESPONDENT HEREIN.
3. NIHALA(MINOR),
D/O.FATHIMA, DO- DO- DO.

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON
09-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T.RAVIKUMAR, J.

R.P.(F.C)No.8 of 2015

Dated 9th November, 2015

ORDER

This revision petition is filed challenging the order dated 15.11.2014 passed by the Family Court, Tirur in C.M.P.Nos.743 and 744 of 2014 in M.C.No.849 of 2010. The aforementioned Civil Miscellaneous Petitions were filed by the revision petitioner herein respectively to condone the delay in filing the application for setting aside the order passed in the M.C. and also to set aside the *ex parte* order passed in the M.C. In fact, it was filed by the power of attorney holder of the respondent in the said M.C. In the M.C. an interim order was passed by the Family Court directing the respondent therein/the revision petitioner herein to pay interim maintenance to respondents 2 and 3 therein who are none other than his minor daughters at the rate of ₹ 1,000/- each. Virtually, it is to set aside the said order that the latter C.M.P was filed. As per the impugned common order the petition filed by the revision petitioner herein to set aside the *ex parte* order was allowed on condition that the petitioner should pay a cost of ₹ 5,000/- to the respondent and to deposit the interim maintenance amount at the rate of ₹ 1,000/- each in respect of the

minor daughters from the date of petition that is, 26.8.2010 till the date of passing of the order, within a period of one month. It was further ordered thus:-

“If the petitioner fails to pay the cost and interim maintenance ordered in favour of the minors the petition shall be dismissed automatically without allowing any further time for payment. Petition posted for payment on 15.12.2014.”

As noticed hereinbefore, it is to challenge the order dated 15.11.2014 that the captioned revision petition has been filed. The revision petition is not so far been admitted. When this matter came up for consideration on 6.11.2015 this Court put a question to the revision petitioner regarding the present stage of M.C.No.849 of 2010. When this matter is taken up for consideration today, the learned counsel appearing for the revision petitioner submitted that the M.C. was already disposed of by the Family Court. In other words, the M.C. was allowed. When that be the position, in case the petitioner is aggrieved by the order in the M.C. he has to challenge the same. Unless there is a challenge against the final order passed in the M.C. no purpose could be served by the disposal of this revision petition in the aforementioned circumstances. In such circumstances, without prejudice to the right of the revision petitioner to

challenge the order in the M.C. in accordance with law, this revision petition is dismissed.

Sd/-
C.T.RAVIKUMAR
Judge

TKS