

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

RPFC.No. 46 of 2015 ()

AGAINST THE ORDER IN MP 250/2014 IN M.C.NO.57/2013 of FAMILY COURT,
ERNAKULAM DATED 29-09-2014

REVISION PETITIONER(S)/RESPONDENT:

SUBAIR, AGED 66 YEARS
S/O ABDUL MUTHALEEF, RAJHADHANI, KANNAMKODE
ADOOR.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENT(S)/PETITIONERS:

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1. NAZEERA, AGED 40 YEARS
D/O LATE MOOSA, H.NO:12/155, PANAYAPALLY
COCHIN-682002.
 2. ARAFA, AGED 15 YEARS
(MINOR), D/O SUBAIR.
 3. FARAHA, AGED 11 YEARS
(MINOR), D/O SUBAIR

(R2 AND R3 REPRESENTED BY FIRST RESPONDENT GUARDIAN/MOTHER)

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON
04-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T. RAVIKUMAR, J.

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R.P.(F.C). No.46 OF 2015

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Dated this the 4th day of February, 2015

ORDER

This revision petition is directed against the order in M.P.No.250 of 2014 in M.C.No.57 of 2013 passed by the Family Court, Ernakulam. The respondents herein are respectively the wife and children of the revision petitioner. The respondents herein moved the aforesaid M.P seeking interim maintenance from the revision petitioner. In the M.C, the respondents sought for an order for interim maintenance @ ₹8000 to the first respondent and ₹6000 to respondents 2 and 3. Taking note of the fact that this revision petition was filed in the year 2013 and other attending circumstances and the age of respondents 2 and 3, the Family Court passed an order granting ₹3000 as interim maintenance to the first petitioner and ₹2000 each as interim maintenance to respondents 2 and 3. This revision petition is

directed against the said order.

2. I have heard the learned counsel for the petitioner. The learned counsel for the petitioner submitted that M.P.No.250 of 2014 for interim maintenance was filed at a time when the main case was ripe for trial and it was filed to protract the proceedings. It is also submitted that such a petition for interim maintenance was not filed with the main case in the year 2013. That apart, resisting the prayer in the M.P, the revision petitioner filed detailed affidavit before the Family Court. However, the Family Court did not consider any of the objections raised by the petitioner, it contended. It is also contended that the order passed by the Family Court granting interim maintenance is one passed without application of mind. A perusal of the objections filed by the revision petitioner as also the pleadings in the revision petition would reveal that the petitioner is not disputing the marriage as also the paternity of respondents 2 and 3. According to the petitioner, the amount of interim maintenance was fixed by the

Family Court without looking into his ability and capacity and without taking into the objections raised by him. In the maintenance case, the respondents herein claimed ₹8000 and ₹6000 respectively as maintenance. Respondents 2 and 3 who are minor daughters born in the wedlock of the petitioner with the first respondent are aged 15 years and 11 years respectively. The first respondent is aged 40 years. It is taking into account the expenses required for meeting the day to day requirements that the Family Court fixed the aforesaid amount as interim maintenance. Taking note of the age of the respondents and taking into account the hike in the cost of living, I do not think that the amount fixed by the Family Court towards maintenance could be said to be exorbitant warranting interference. When faced with such a situation, the learned counsel for the petitioner submitted that taking into account the fact that the petitioner is an autorickshaw driver and as per the impugned order, he is directed to pay ₹7000 per month, the Family Court may be directed to dispose of the matter expeditiously. In view of the said submission and the order I propose to pass in this

revision petition I do not think it necessary to issue notice to the respondents. In such circumstances, the Family Court is directed to dispose of M.C.No.57 of 2013 as expeditiously as possible within a period of six months. Subject to the above, this revision petition is dismissed. Needless to say that M.C.No.57 of 2013 shall be considered untrammelled by the observations made in this judgment and accordance with law.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010

