

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

RPFC.No. 63 of 2015 ()

AGAINST THE ORDER IN M.C. NO 81/2013 of FAMILY COURT,THRISSUR DATED
20-11-2014

REVISION PETITIONER(S)/RESPONDENT:

SUNIL JOHN AGED 42 YEARS
S/O. CHIRAYATH MANJILA JOHN, SHASTRI NAGAR
STREET NO. 1, NADATHARA VILLAGE, THRISSUR - 1.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENT(S)/PETITIONERS:

1. SOFIYA LOUIS, AGED 30 YEARS
D/O. PELLISSERY LOUIS, KURUTHUKULAM J.P.NAGAR
NADATHARA VILLAGE, THRISSUR TALUK-680751
2. MINOR BENJAMIN, AGED 6 YEARS,
S/O. SUNIL JOHN, PELLISSERY HOUSE
KURUTHUKULAM J.P.NAGAR, NADATHARA VILLAGE
THRISSUR TALUK-680751
REPRESENTED BY 1ST RESPONDENT MOTHER.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

R.P(F.C) No.63 of 2015

Dated this the 10th day of February, 2015

ORDER

This revision petition has been filed challenging the order dated 21.11.2014 in M.C.No.81/2013 of the Family Court, Thrissur. The first respondent herein filed the aforesaid M.C.No.81/2013 under section 125 of the Code of Criminal Procedure seeking maintenance for herself and the second respondent, the minor child born in her wedlock with the revision petitioner. That petition was filed seeking monthly maintenance of Rs.6,000/- to the first respondent and Rs.5,000/- to the second respondent. The revision petitioner appeared before the family court and resisted the claim of the respondents. To substantiate the claim the first respondent got herself examined as PW1 and the respondent therein/the revision petitioner got himself examined as RW1 and got marked Exts.D1 to D4 series. The family court carefully evaluated the evidence on record. The contention of the first respondent was that the revision petitioner is working as an LIC agent and he is getting more than 40,000/- per month and still, he has been neglecting to maintain them. Admittedly, the matrimonial tie

between the revision petitioner and the first respondent was dissolved earlier. In fact, it was an ex parte order. On an application filed by the first respondent the decree was set aside and it is pending. Evidently, the first respondent herein is employed in Alukkas Corporate Office as an accountant. The revision petitioner contended that he is getting an amount of Rs.15,000/- per month by way of salary. The first respondent herein admitted her employment and contended that she is getting only 9,000/ as salary. Taking note of the same the family court found that the first respondent herein is earning Rs.9,000/- per month and in such circumstances, the first respondent herein is not entitled to claim maintenance from the revision petitioner considering the status of the parties. At the same time, it was found that the fact that the first respondent herein is employed and she is earning could not be a reason for absolving the revision petitioner from his liability to maintain his child. In that view of the matter and taking note of the other relevant circumstances, viz., the ability and capability of the revision petitioner and also the fact that the first respondent, the mother of the child is also earning , the family court found that an amount of Rs.2,500/- would be a

reasonable amount of monthly maintenance to be fixed in respect of the second respondent, the son born in the wedlock of the revision petitioner and the first respondent. It is challenging the said order, to the extent it directs the revision petitioner to pay maintenance to the second respondent that this revision petition has been filed.

2. I have heard the learned counsel for the petitioner.

3. I have already taken note of the indisputable and undisputed facts. As noticed hereinbefore, the matrimonial tie between the revision petitioner and the first respondent is still subsisting. The revision petitioner is not disputed the paternity of the second respondent and the second respondent born in the wedlock of the revision petitioner and the first respondent is now, aged only 5 ½ years. Needless to say that at this growing age the second respondent is to be provided with nourishing food. He is also to be admitted in a school. Taking into account all such aspects it could not be said that the Family Court went wrong in saddling the petitioner with the liability to share the responsibility to bring up the child and in that regard directed him to pay maintenance at the rate of Rs.2,500/- per month. There

cannot be any doubt with respect to the position that child at that age cannot be brought up properly with the income of the first respondent. In short, I am of the view that in the said circumstances, the amount of monthly maintenance fixed by the family court in respect of the second respondent, the child born in the wedlock of the revision petitioner and the first respondent having only the age of 5 ½ years, cannot be said to be exorbitant warranting interference by invoking the revisional jurisdiction. In that view of the matter this revision petition is liable to fail and accordingly it is dismissed.

Sd/-

C.T.RAVIKUMAR,JUDGE.

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