

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

RPFC.No. 105 of 2015 ()

**AGAINST THE ORDER IN M.C.NO.515/2013 of FAMILY COURT, THRISSUR
DATED 20-11-2014**

REVISION PETITIONER/1ST RESPONDENT:

**UNNIKRISHNAN,
MURINGATHERY HOUSE, NELLUVAI,
PIN - 680 684**

**BY ADVS.SRI.MANU TOM
SMT.K.R.MONISHA
SMT.P.DARLY JOHN**

RESPONDENT/PETITIONER:

**DEVAKY, AGED 80 YEARS,
MURINGATHERY HOUSE,
NELLUVAI, ERUMAPETTY,
THALAPPILLY TALUK, PIN - 680 684.**

**THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON
18-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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K. Ramakrishnan, J.

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Dated this, the 18th day of March, 2015.

ORDER

First Counter petitioner in M.C.No.515/2013 on the file of the Family Court, Thrissur is the revision petitioner herein.

2. The petition was filed by the unfortunate old mother aged 80 years against her two sons claiming maintenance under Section 125 of the Code of Criminal Procedure.

3. It is alleged in the petition that she is without any employment and the counter petitioners are getting good income. First respondent is a carpenter and second respondent is conducting a furniture shop and getting a monthly income of Rs.20,000/- and Rs.30,000/- respectively. She requires at least Rs.10,000/- per month as maintenance. The respondents filed counter contending that they are also aged persons and she filed a petition before the Revenue Divisional Officer under the Maintenance and Welfare of Parents and Senior Citizens Act and got the order of maintenance and the second respondent had paid the maintenance amount from 16.06.2010 to 24.12.2013. Suppressing this fact, the application has been filed. The Revenue Divisional Officer has directed the second

respondent and his brother to pay maintenance at the rate of Rs.300/- each. So, they prayed for dismissal of the application.

4. The petitioner in the lower court was examined as PW1 and no documents were marked on her side. The present petitioner was examined as RW1 and Exts.D1 to D9 were marked on his side. After considering the evidence on record, the court below directed the respondents in the lower court to pay maintenance at the rate of Rs.500/- each from the date of petition over and above the maintenance amount awarded by the Revenue Divisional Officer. This order is being challenged by the petitioner.

5. Considering the scope of enquiry, this court felt that the revision can be disposed of at the admission stage itself after hearing the Counsel for the revision petitioner dispensing with notice to the respondent.

6. The Counsel for the revision petitioner submitted that, court below had not considered the contentions raised by them. Further, the Revenue Divisional Officer had granted maintenance and that fact was suppressed and the present petition was filed and she is not entitled to get maintenance

and he is also suffering from several ailments.

7. As already mentioned that an old mother of aged 80 years has been driven to court to get a paltry amount of maintenance from her children. She is aged 80 years. Further, in the counter statement filed by the present petitioner, he had not mentioned anything about his income. Second respondent had mentioned that he is getting Rs.8,000/- per month. Though it is mentioned in the counter statement of second respondent that the Revenue Divisional Officer as the Tribunal appointed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 had granted maintenance at the rate of Rs.300/- each payable by the second respondent and the present revision petitioner and he was paying that amount, court below had found that no document has been produced to prove that fact. Further, the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act is only an enactment enacted to protect the interest of parents and senior citizens who have been neglected by their kith and kins and that cannot be treated as in derogation to the rights available under general law to such persons to claim maintenance from the persons liable to pay

maintenance under the general law. Further, the court below had considered this aspect also and found that the amount is not sufficient to meet the maintenance of the mother and came to the conclusion that she is entitled to get Rs.500/- per month over and above the amount already ordered by the Revenue Divisional Officer which cannot be said to be excessive considering the living conditions warranting interference at the hands of this court. It is quite unfortunate that old people like the unfortunate mother are being driven to court to get paltry amount of maintenance from their children who had sacrificed their life to bring up their children. So, considering the circumstances, this court feels that there is no merit in the revision and the same is liable to be dismissed.

So, the revision petition is dismissed. The Counsel for the petitioner sought some time for payment of the amount. Considering the amount involved, this court feels that the request of the Counsel for the revision petitioner for four months time appears to be reasonable and the same is allowed. The revision petitioner is directed to pay the arrears of maintenance as ordered by the court below in four monthly equal installments from today. If any default is committed,

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then, the respondent herein is entitled to execute the order through court. If any amount has been deposited, then, the lower court is directed to disburse the amount to the petitioner in the lower court.

Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.Ramakrishnan, Judge.

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[True copy]

P.A to Judge