

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

RPFC.No. 106 of 2015 ()

ORDER IN MC 197/2013 OF FAMILY COURT, KANNUR DATED 29-10-2014

REVISION PETITIONER/RESPONDENT:

BIJU K.P., AGED 43 YEARS
S/O.PARAMESWARAN, RESIDING AT 2494 B, GIRINAGAR COLONY
27 DIVISION, KOCHI CORPORATION, ERNAKULAM DISTRICT.

BY ADVS.SRI.SANTHOSH G. PRABHU
SRI.S.KANNAN

RESPONDENT/PETITIONER:

SHEEJA M.P., AGED 40 YEARS
D/O.KUMARAN, RESIDING AT KRISHNAKRIPA, PUTHIYAPARAMBA
CHIRAKKAL P.O., KANNUR TALUK, KANNUR-670011.

R-R BY ADV. SRI.P.U.SHAILAJAN

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 28-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RPFC.No. 106 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1: TRUE COPY OF THE APPLICATION FILED BY THE
RESPONDENT HEREIN BEFORE THE HONOURABLE FAMILY COURT, KANNUR IN
M.C.197/2013.

ANNEXURE A2: TRUE COPY OF THE OBJECTION FILED BY THE REVISION
PETITIONER BEFORE THE HONOURABLE FAMILY COURT, KANNUR IN
M.C.NO.197/2013.

ANNEXURE A3: TRUE COPY OF THE EXT.R1 DISABILITY CERTIFICATE
DATED 1.2.2008 ISSUED BY THE DISTRICT HOSPITAL, ERNAKULAM.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.106 of 2015

Dated this the 28th day of October, 2015

ORDER

The revision petitioner is the respondent in M.C.No.197 of 2013 on the files of the Family Court, Kannur. The revision petitioner was directed by the court below to pay a maintenance of ₹4,000/- to the respondent herein, who is the wife of the revision petitioner.

2. Heard both sides.

3. Both sides admit the status of the respondent herein as the wife of the revision petitioner.

4. The respondent herein would contend that the revision petitioner treated her with cruelty demanding more money and share of the tharavadu house of the respondent herein. Therefore, she was compelled to leave the company of the revision petitioner during July 2012. The respondent herein is not having any source of income for her livelihood. The revision petitioner is working as an attender in Maharaja's

Hospital, Karuvelippadi, drawing a monthly salary of ₹18,000/-.

5. The revision petitioner filed objection admitting his employment. However, he contended that he is having only a salary of ₹14,770/-. He has aged parents to be looked after. He is having a daughter aged 16 years to be looked after. He is a handicapped person, who needs transporting facility to attend the office and come back.

6. The fact that the respondent left the Matrimonial Home during 2012 is admitted by the revision petitioner. However, the revision petitioner would contend that the respondent left the company of the revision petitioner as she was not prepared to live with the parents of the revision petitioner. The respondent is having tailoring job, earning an amount of ₹8,000/- per month.

7. Before the court below, PW1 was examined and Exts.P1 and P2 were marked for the respondent herein. RW1 was examined and Ext.R1 was marked for the revision

petitioner.

8. Ext.R1 would show that the revision petitioner is having disability to the extent of 50% on account of cerebral palsy. However, the evidence of PW1 would show that even though the revision petitioner is having disability, the revision petitioner used to attack the respondent. The court below found that the respondent was compelled to leave the company of the revision petitioner on account of the cruelty by the revision petitioner. Even though it was contended by the revision petitioner that the revision petitioner was getting only an amount of ₹14,770/- as monthly salary, no document was produced by the revision petitioner to prove the same. No document was also produced by the revision petitioner to substantiate the contention of the revision petitioner that the revision petitioner is getting only an amount of ₹6,826/- per month after deducting the amount under various heads. It is not discernible as to why the revision petitioner did not produce the salary certificate to prove the salary of the

revision petitioner. The court below had taken adverse inference for not having produced the salary certificate pertaining to the salary of the revision petitioner. The court below found that if the certificate had been produced, that would have been against the contention of the revision petitioner. Admittedly, the revision petitioner is a Government servant. Taking into consideration of the entire aspects, the court below observed that the revision petitioner would get at least an amount of ₹16,000/- per month as salary from his employment under the Government. Even though the revision petitioner contended that the respondent is doing tailoring work, earning ₹8,000/- per month, no material is available before the court to substantiate the same. The revision petitioner agreed that he was prepared to pay an amount of ₹2,000/- per month towards the maintenance of the respondent. Taking into consideration of the needs of the respondent, status of the parties, the cost of living and the probable income of the revision petitioner, the court below

fixed the quantum of maintenance at ₹4,000/- per month.

Having gone through the relevant inputs, I am of the view that the quantum of maintenance fixed by the court below is reasonable. No circumstance has been brought to my notice to hold that the order impugned suffers from any infirmity warranting interference by this Court.

In the result, the R.P.(F.C.) stands dismissed.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

ScI/28.10.2015

True Copy

PA to Judge