

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

RPFC.No. 148 of 2015

AGAINST THE ORDER IN MC 491/2013 of FAMILY COURT,THRISSUR
DATED 23-12-2014.

REVISION PETITIONER(S)/RESPONDENT:

O.K.GOPI, AGED 75 YEARS,
S/O.KESAVAN VAIDYAR, ODATTIL HOUSE,
POTTEKKATTIL BUILDING, NEAR PAREMEKKAVU TEMPLE,
THRISSUR DISTRICT.

BY ADV. SRI.V.BINOY RAM

RESPONDENT(S)/PETITIONER:

C.V.INDIRA DEVI, AGED 69 YEARS,
D/O.CHEEROTH VELAYUDHAN, ODATTIL HOUSE,
CHITTELAPPILLY P.O., THRISSUR TALUK, DISTRICT,
PIN-680551.

R1 BY ADV. SRI.JOSHI N.THOMAS
BY ADV. SRI.SYLVESTER ESMOND RAPHAEL

THIS REV.PETITION(FAMILY COURT) HAVING COME UP
FOR ADMISSION ON 09-06-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

R.P.(FC) No. 148 of 2015

Dated this the 9th day of June, 2015

ORDER

This revision petition is filed challenging the order whereby the petitioner is directed to pay maintenance allowance at the rate of ₹5,000/- per mensem to the respondent. The legality of the entitlement of the maintenance allowance and the correctness of the quantum of amount determined by the court below are under challenge in this R.P.(FC).

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent. Both counsel advanced arguments in support of their respective contentions raised in the M.C.

3. The marital status of the respondent is not disputed and the petitioner is aged 75 years and the

respondent is aged 68 years. They are blessed with two children also. But, it is unfortunate that the respondent is craving for maintenance allowance. According to the respondent, she has no job or any source of income and she is suffering from so many ailments. But the petitioner has neglected to maintain her and refused to pay maintenance allowance. In short, she is unable to maintain herself; where as the petitioner is a pensioner and getting ₹9,000/- per month as pension. In addition to that, he is running an institute under the name and style 'OK Institute' and getting ₹60,000/- per month as income. The petitioner denied the allegation that he is getting ₹60,000/- per month from the institute. So also, he denied the allegation that from 23/12/2003 onwards he neglected to pay maintenance allowance to the respondent.

4. Going by the impugned order, it has come out in evidence that the petitioner is running an institute, as alleged by the respondent, and three teachers are

employed in the said institute. The petitioner himself admitted that he is paying ₹15,000/- towards the rent of the building and ₹15,000/- each to the teachers as salary. As rightly observed by the court below, if three teachers are employed in the said institute, it could be reasonably presumed that he is getting a substantial amount as income from the said institute. Though he denied the allegation that he has been paying maintenance allowance after 2003, no evidence had been adduced to substantiate the said contention. Ext.P9 - copy of the pension certificate, proves that the petitioner is getting ₹9,000/- per month as pension. As rightly held by the court below, a substantial amount is required for the treatment of the respondent. No evidence has been brought up to show that the children are looking after their aged mother. A substantial amount is required for the treatment of various ailments of the respondent. Certainly, half of the entire pension amount can be set apart to give as maintenance allowance to his

wife. But the court below has determined the quantum of maintenance a little more than half of the amount. In that view of the matter, I find that the quantum of maintenance allowance determined by the court below is a little excessive. Therefore, the quantum of amount will stand re-fixed to ₹4,500/- per month only.

5. There is no other illegality or impropriety in any of the findings in the impugned order. The petitioner is directed to pay maintenance allowance at the rate of ₹4,500/- per month to the respondent from the date of this order.

This revision petition is disposed of accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge