

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

RPFC.No. 157 of 2015 ()

MC 196/2013 of FAMILY COURT, KANNUR DATED 15-01-2015

REVISION PETITIONER/COUNTER PETITIONER:

M.V.THANKACHAN, AGED 50 YEARS
S/O VASU, MAVILA VEETIL HOUSE, THAYYENI
THAYYENI, P.O, PALAVAYAL VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT - 671 511

BY ADVS.SRI.V.A.SATHEESH
SRI.V.T.MADHAVANUNNI

RESPONDENT(S)/PETITIONERS:

1. SINDHU.P.R, AGED 40 YEARS,
W/O THANKACHAN, PUTHUPARAMBIL HOUSE,
ALAKODE P.O, KANNUR DISTRICT 670 571

2. ABHIJITH, AGED 13 YEARS (MINOR)
S/O THANKACHAN, PUTHUPARAMBIL HOUSE,
ALAKODE P.O, KANNUR DISTRICT 670 571

3. MEGHA, AGED 8 YEARS, (MINOR)
D/O THANKACHAN, PUTHUPARAMBIL HOUSE,
ALAKODE P.O, KANNUR DISTRICT 670 571

MINORS ARE REPRESENTED BY THEIR MOTHER AND GUARDIAN
SINDHU.P.R, W/O THANKACHAN, PUTHUPARAMBIL HOUSE,
ALAKODE P.O, KANNUR DISTRICT 670 571

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 05-06-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

STU

K.HARILAL, J.

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R.P.(F.C) No.157 of 2015

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Dated this the 5th day of June, 2015

ORDER

The petitioner is the respondent in M.C.No.196/2013 on the files of the Family Court, Kannur, filed by the respondents herein, who are the wife and children of the petitioner, claiming maintenance allowance under Section 125(1) of the Code of Criminal Procedure. According to the 1st respondent, she is the legally wedded wife of the petitioner and the respondents 2 and 3 are the children born in that wedlock. So, they are entitled to get maintenance allowance without any interruption. But, the petitioner has neglected them and refused to pay maintenance allowance from 26.12.2011 onwards. The 1st respondent has no job or any other sources of income and she is unable to maintain herself and the respondents; whereas the petitioner is employed as a school teacher and

getting a monthly salary of ₹35,000/-. He is also earning an amount of ₹1,00,000/- per year from the landed properties.

2. The petitioner admitted the relationship between the parties as claimed by the respondents. But, he denied the allegation that he neglected them and refused to pay maintenance allowance. It is alleged that she had undergone beautician course and she is now running a Pretty Queen Beauty clinic at Puthiyatheru. She is also conducting a tailoring centre and thereby she is earning ₹ 1,000/- per day. On account of the cruelty inflicted on him, he was constrained to file O.P 135/2013 for obtaining a decree for divorce. He has been providing ₹2,000/- as maintenance to the minor respondents 2 and 3 by way of money order. His monthly salary is less than ₹20,000/- and he has to pay ₹2,000/- towards house rent. That apart, the 1st respondent had obtained 33 cents of landed property as due share from her Tharawad. After considering the rival contentions and evidence let in by both parties, the court

below rejected the claim of the 1st respondent and directed the petitioner to pay maintenance allowance @ ₹3,000/- each to the respondents 2 and 3. The correctness of the quantum fixed by the court below for 2nd and 3rd respondents are under challenge in this revision petition.

3. Coming to the claim of respondents 2 and 3, it has come out in evidence that the petitioner has not totally neglected them and he has been paying some amount towards their maintenance. So, the point to be considered is, whether the said amount is sufficient?

4. The petitioner expressed his willingness to pay maintenance allowance @ ₹2,000/- per month. Respondents 2 and 3 are minor school going children. A substantial amount is required for the educational expenses. The term "Maintenance" includes provision for food, clothing, shelter, medical attendance, educational expenses etc. and the petitioner is liable to pay maintenance allowance in accordance with their requirements. In the above view, I

find that the quantum of maintenance allowance determined @ ₹3,000/- each per month is just and reasonable and no interference is called for under revisional jurisdiction.

5. Having regard to the facts and circumstances of the case, the revision petitioner is given four months' time to pay the arrear, provided that, the revision petitioner shall pay half of the entire arrear within a period of two months from today and the remaining balance shall be paid within the next two months. In the event of failure to pay the first instalment within the specified time, this facility will stand cancelled automatically and the Family Court will be free to enforce the realisation of entire arrear in lump sum.

The revision petition is disposed of.

Sd/-
K.HARILAL, JUDGE.

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P.A to Judge