

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

RPFC.No. 164 of 2015 ()

AGAINST THE ORDER IN MC 295/2013 of FAMILY COURT, ERNAKULAM
DATED 28-02-2015

REVISION PETITIONER(S)/REVISION PETITIONER/RESPONDENT:

DR.H.M.SHABEER AGED 45 YEARS
S/O E.M.HAMEED, PLACKAL VILLA, LAYICAD
PERUNNA P.O., CHANGANASSERY, KOTTAYAM DISTRICT.

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENT(S)/RESPONDENTS/PETITIONERS:

1. FATHIMA ZAHRA, AGED 18 YEARS
D/O NAZEERA, MATHER WHITE WATERS, 11E
PHASE, SANTHI NAGAR, TEVARA
KOCHI-682013.

2. FARHANA SHABEER, AGED 14 YEARS
MINOR, REP. BY GUARDIAN-MOTHER, NAZEERA AGED 38 YEARS
D/O LATE ABDULLA HAROON, MATHER WHITE WATERS, 11E
I PHASE, SANTHI NAGAR, TEVARA
KOCHI-682013.

R1 BY ADVS. M/S.K.M.SATHYANATHA MENON,
SMT.KAVERY S THAMPI & SMT.ANJANA KANNATH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 5-10-2015, THE COURT ON 19-10-2015, PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

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RP (F C) 164 of 2015
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Dated this the 19th day of October, 2015

ORDER

The revision petitioner is the respondent in MC No.295 of 2013 on the files of the Family Court, Ernakulam who in this revision petition challenges the order passed by the court below directing the revision petitioner to pay an amount of Rs. 20,000/- to the first respondent and an amount of Rs. 15,000/- to the second respondent towards monthly maintenance.

2. Heard both sides.

3. It is not disputed that the respondents are the minor children of the revision petitioner. The marriage between the revision petitioner and the mother of the respondents was on 3-3-1996, in accordance with Muslim rights and ceremonies. The respondents contended that the mother of the respondents was divorced by the revision petitioner on 19-09-2012 by pronouncing “Talak”. The mother of the respondents was treated with cruelty

by the revision petitioner. The revision petitioner neglected to maintain respondents from September, 2011 onwards. The respondents would contend that the mother of the respondents is not having any source of income for the maintenance of the respondents. The revision petitioner is a doctor having postgraduate qualification in pediatric medicine. He is running a hospital near Changanassery. The revision petitioner is getting an income of more than 1.5 lakhs per month from the said hospital in connection with his consultation. In addition to that, he is earning Rs. 6 lakhs as the Managing Director of the said Hospital. He owned commercial buildings and landed properties from which also he is getting income.

4. Before the court below, PW1 was examined and Exts. A1 to A14 were marked for the respondents herein. RW1 was examined and Exts. B1 to B6 were marked for the revision petitioner.

5. PW1 is the mother of the respondents. PW1 re-iterated the contentions in the petition. It is contended in the petition and stated by PW1 that the first respondent is having ailment for which she had to undergo an operation. The mother of the

respondents had to spend huge amount for that. Exts. A1 to A3 are the documents showing the treatment given to the first respondent. Exts. A4 to A10 series would show the expenses incurred by the mother of the respondents for the education of the minor respondents. PW1 stated that she is not having any income to meet the medical expenses of the first respondent and educational expenses of the minor respondents. The revision petitioner is having substantial income of his own as he is working as an expert in the medical field. The revision petitioner would contend that he is running only a palliative care unit, which is a Charitable Trust made for the benefit of the weaker sections of the community. The said institution is running free of cost. The revision petitioner is ready to meet the expenses of the minor respondents within the limits of his income. He is getting only an amount of Rs. 30,000/- as his income.

6. It is not disputed that the respondents are studying in a reputed School, namely, Toch-H School. It is in the evidence of PW1 that a huge amount was spent by her for the minor children to get admission in the said school. It is not disputed that a huge

amount is required for the tuition of the respondents. It is also not in dispute that the first respondent has been suffering from serious ailment. She was suffering from over production of Calcium in her body, for which she had undergone treatment. She is also suffering from para thyroid adenoma. She was operated in Amrita Hospital and thereafter, in a hospital at Manipal. She is presently undergoing Physiotherapy. She requires special conveyance for reaching the school as she is unable to travel to the school by bus or autorickshaw. Therefore, PW1 takes her to school in car, for which also she requires huge amount. Eventhough the revision petitioner contended that he is getting only an amount of Rs. 30,000/- per month, the court below did not believe it. The court below observed that the revision petitioner is the owner of Thengana Medical Mission Hospital and Research Centre, Changanassery. He is having Post Graduation in Paediatrics. In view of the above reasons, the court below observed that the Medical expertise of the standard of the revision petitioner could be expected to earn not less than Rs. 50,000/- per month.

7. After considering the medical expenses for the first

respondent, the educational expenses and the expenses for other welfare activities of the respondents, the status of the parties and the probable income of the revision petitioner, the court below directed the revision petitioner to pay maintenance as stated above.

8. Having gone through the relevant inputs, I do not find any reason to hold that the finding of the courts below suffers from any illegality, impropriety or incorrectness warranting interference by this Court.

In the result, this Revision Petition (FC) stands dismissed.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

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P.S. To Judge